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*(From a picture taken at the meeting of December, 1929, when the Fifth Report
was completed)*

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REPORT OF THE DEPARTMENT OF PUBLIC WORKS
RELATIVE TO METHODS OF DEALING WITH
PETTY MOTOR VEHICLE OFFENCES
SENATE DOCUMENT NO. 5

Issued Quarterly by the
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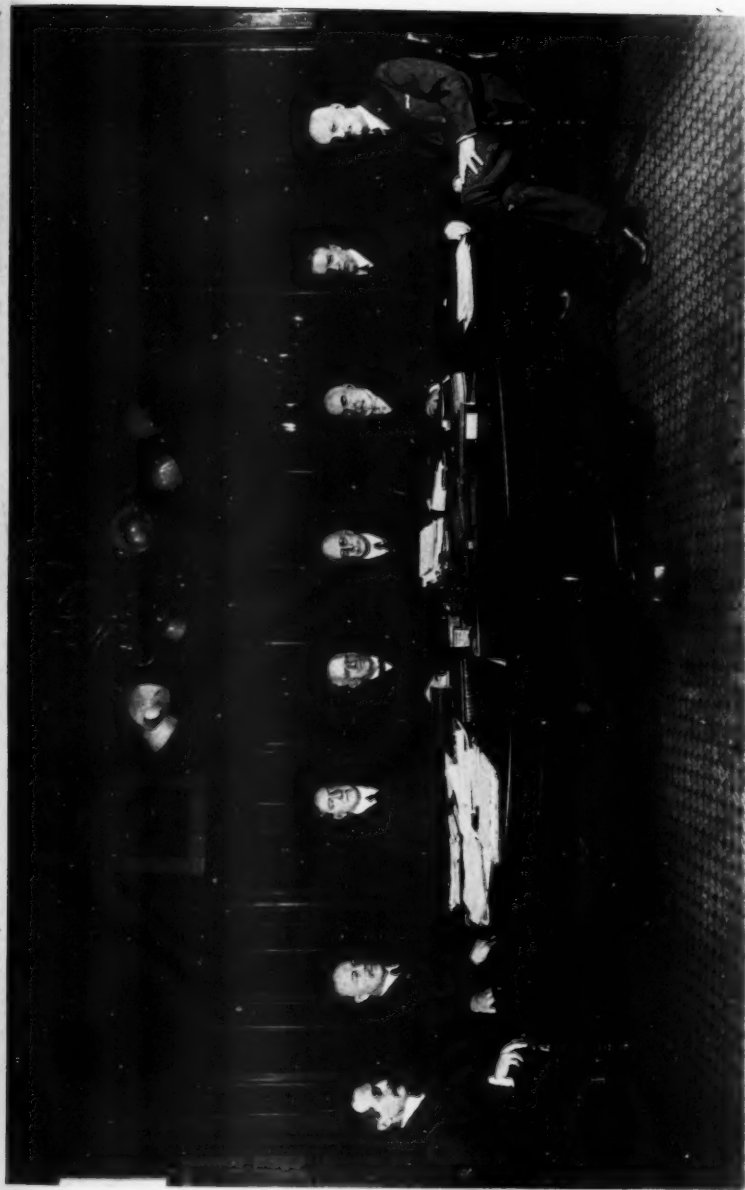
INTRODUCTORY STATEMENT.

The First Report of the Judicial Council was reprinted in the "Quarterly" for November, 1925, the Second Report in the "Quarterly" for December, 1926, the Third Report in the "Quarterly" for November, 1927, and the Fourth Report in the "Quarterly" for December, 1928. The Fifth Report reprinted herein was recently filed with the Governor and transmitted as usual by special message to the legislature for consideration. The "Quarterly" for December, 1926, contained a picture of the Judicial Council taken at the completion of its Second Report. As the membership has changed somewhat since that time, a picture taken at the last meeting in 1929 when the Fifth Report was completed is here reproduced so that the members of the Association may see what the Council looks like.

The problem of dealing with petty motor vehicle offences, which had been discussed in the earlier reports of the Council was referred by Resolves of 1929, C. 45, to the Public Works Department for further study. That Department has recently filed a report (Senate 5) with a draft act. As this matter is one of far-reaching importance the report is here reprinted in order that the reasons for the proposed bill may be better understood.

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F. W. GRINNELL JUDGE DOW R. G. DODGE JUDGE FESSENDEN A. L. GREEN JUDGE DAVIS F. W. MANSFIELD JUDGE HIBBARD

Chairman

THE JUDICIAL COUNCIL OF MASSACHUSETTS

(From a picture taken at the meeting in December, 1929, when the Fifth Report was finished.)

FIFTH REPORT
OF THE
JUDICIAL COUNCIL OF MASSACHUSETTS

CREATED BY CHAPTER 244, ACTS OF 1924

NOVEMBER, 1929

(For Index see pages 4-6)



PUBLICATION OF THIS DOCUMENT APPROVED BY THE COMMISSION ON ADMINISTRATION AND FINANCE

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ACTS OF 1924, CHAPTER 244.

AN ACT PROVIDING FOR THE ESTABLISHMENT OF A JUDICIAL COUNCIL
TO MAKE A CONTINUOUS STUDY OF THE ORGANIZATION, PROCEDURE
AND PRACTICE OF THE COURTS.

Be it enacted, etc., as follows:

Chapter two hundred and twenty-one of the General Laws is hereby amended by inserting after section thirty-four, under the heading "Judicial Council," the following three new sections: — *Section 34A.* There shall be a judicial council for the continuous study of the organization, rules and methods of procedure and practice of the judicial system of the commonwealth, the work accomplished, and the results produced by that system and its various parts. Said council shall be composed of the chief justice of the supreme judicial court or some other justice or former justice of that court appointed from time to time by him; the chief justice of the superior court or some other justice or former justice of that court appointed from time to time by him; the judge of the land court or some other judge or former judge of that court appointed from time to time by him; one judge of a probate court in the commonwealth and one justice of a district court in the commonwealth and not more than four members of the bar all to be appointed by the governor, with the advice and consent of the executive council. The appointments by the governor shall be for such periods, not exceeding four years, as he shall determine.

Section 34B. The judicial council shall report annually on or before December first to the governor upon the work of the various branches of the judicial system. Said council may also from time to time submit for the consideration of the justices of the various courts such suggestions in regard to rules of practice and procedure as it may deem advisable.

Section 34C. No member of said council shall receive any compensation for his services, but said council and the several members thereof shall be allowed from the state treasury out of any appropriation made for the purpose such expenses for clerical and other services, travel and incidentals as the governor and council shall approve.

Approved April 12, 1924.

MEMBERS OF THE COUNCIL.

WILLIAM CALEB LORING of Boston, *Honorary Chairman*
ADDISON L. GREEN of Holyoke, *Chairman*

FRANKLIN G. FESSENDEN of Greenfield
HARRY R. DOW of North Andover
ROBERT G. DODGE of Boston

CHARLES T. DAVIS of Marblehead
CHARLES L. HIBBARD of Pittsfield
FREDERICK W. MANSFIELD of Boston

FRANK W. GRINNELL of Boston, *Secretary*

FIFTH REPORT

OF THE

Judicial Council of Massachusetts

His Excellency

FRANK G. ALLEN,

Governor of Massachusetts.

The Judicial Council was created by St. 1924, chapter 244 (see copy printed on opposite page), "for the continuous study of the organization, rules and methods of procedure and practice of the judicial system of the Commonwealth, the work accomplished and the results produced by that system and its various parts."

During the past year, as in previous years, the Council has held meetings fully attended in the Boston Court House on Saturday mornings each fortnight, except in July and August. Much time has also been devoted to the work of the Council between meetings.

At the end of last year three members of the Judicial Council retired, — Judge Frank A. Milliken of the District Court in New Bedford, and Judge William M. Prest of the Suffolk County Probate Court, both of whom had served for four years beginning with the original creation of the Council, and Judge Joseph J. Corbett of the Land Court, who had served for two years. Judge Milliken had also served as chairman of the Administrative Committee of the District Courts from its creation in 1922 until 1928. Upon their retirement their places were filled as follows: Judge Charles T. Davis of the Land Court who served for the first two years of the existence of the Council returned to represent the Land Court in place of Judge Corbett. Judge Harry N. Dow of the Essex County Probate Court was appointed by the Governor to represent the Probate Courts in place of Judge Prest, and Judge Charles L. Hibbard of Pittsfield, secretary of the Administrative Committee of the District Courts since its creation in 1922, was appointed by the Governor to succeed Judge Milliken as representing the District Courts.

In accordance with the purpose for which the Council was created as quoted above, its annual reports present the results of its "continuous study." Copies of the four earlier reports each printed as Public Document No. 144 are obtainable at the Public Document Room. We now present the results of our fifth year of study.

The Congestion in the Superior Court.

In our last two reports we called attention to the fact that the Superior Court was being swamped with automobile cases.

For the five months period, October to February, 1927-1928,

there were 4,201 more cases entered in the Superior Court than in the same period October to February, 1926-1927.

Of this increase 4,093, or 97.4 per cent, were motor vehicle cases.

Stated in totals, there were 3,204 motor vehicle cases entered in the Superior Court during the period October to February, 1926-1927, and 7,297 such cases during the same monthly period 1927-1928. In other words, motor vehicle cases increased 127.7 per cent while all other cases increased only 1.6 per cent.

We suggest a careful examination of the table printed below, giving the details of these statistics and showing how the cases have continued both in number and in percentage in 1929.

	OCT. TO FEB., 1926-27.			OCT. TO FEB., 1927-28.			OCT. TO FEB., 1928-29.		
	Total.	Motor Vehicle.	Per Cent Motor Vehicle.	Total.	Motor Vehicle.	Per Cent Motor Vehicle.	Total.	Motor Vehicle.	Per Cent Motor Vehicle.
Barnstable .	54	12	22.2	89	29	32.5	90	44	-
Berkshire .	32	33	40.2	83	32	38.5	217	84	-
Bristol .	414	129	31.1	519	271	52.2	446	258	-
Dukes .	28	4	15.3	(no return)			11	2	-
Essex .	666	312	46.8	1,053	736	69.8	1,207	692	-
Franklin .	78	20	25.6	84	39	46.4	86	34	-
Hampden .	609	193	31.6	687	308	44.8	869	402	-
Hampshire .	54	22	40.7	69	36	52.1	86	53	-
Middlesex .	1,585	635	40.0	2,323	1,369	58.9	2,331	1,432	-
Nantucket .	8	-	-	8	-	-	9	9	-
Norfolk .	430	222	51.6	608	276	45.3	574	382	-
Plymouth .	261	87	33.3	243	150	61.7	308	176	-
Suffolk .	4,615	1,243	26.9	6,921	3,476	50.2	6,704	3,559	-
Worcester .	-843	292	34.6	1,239	575	46.4	1,117	631	-
	9,725	3,204	32.9	13,026	7,297	52.3	14,055	7,749	55%

The comparison of total entries for 1910, 1920, 1924, and each year thereafter, appears from the following table:

CIVIL CASES SUPERIOR COURT.

Entries 1910-1929.

Year Ending	NEW CASES ENTERED.		
	Jury.	Jury Waived.	Equity.
June 30, 1910 .	8,167	2,701	1,599
June 30, 1920 .	11,790	3,848	2,208
June 30, 1924 .	16,899	5,065	3,230
June 30, 1925 .	18,117	4,973	3,009
June 30, 1926 .	18,282	4,941	3,316
June 30, 1927 .	19,403	5,110	3,655
June 30, 1928 .	27,377	5,256	3,392
June 30, 1929 .	27,592	5,743	3,502

The above table shows a jump of 9,095 jury cases in 1928, the first court year after the present motor vehicle insurance law took effect, as compared with 1926, the last court year before it became

the law. As in our last annual report we have prepared tables* showing all the cases tried and the results of the trials and amounts of the verdicts in all counties in the Commonwealth during the year ending June 30, 1929. These tables with the tabulated reports of business made to the Secretary of the Commonwealth appear in Appendix B. From a study of these tables submitted to us† it appears that the court can try only about 2,500 civil jury cases in a year in addition to its other civil and criminal work and that, owing to the volume of business, it is about 27½ months behind its jury docket in Suffolk County; that in June, 1929, the latest case tried on the general trial list was begun in June, 1927, so that the court had not reached the mass of cases following the present insurance act. This study also indicates that in a few years more at the current rate of accumulation the court, through no fault of the judges, will be still more seriously behind its jury docket.

The results of trials in the Superior Court appear from the following tables:

TORT.

VERDICTS AND FINDINGS FOR YEAR ENDING JUNE 30, 1929.

COUNTY.	JURY.				JURY WAIVED.			
	MOTOR TORTS.		OTHER TORTS.		MOTOR TORTS.		OTHER TORTS.	
	Pltf.	Deft.	Pltf.	Deft.	Pltf.	Deft.	Pltf.	Deft.
Barnstable . . .	—	1	4	—	—	—	—	—
Berkshire . . .	17	11	2	2	1	—	1	—
Bristol . . .	14	32	4	9	6	—	1	—
Dukes . . .	—	—	—	—	—	—	—	—
Essex . . .	43	66	29	22	7	4	5	4
Franklin . . .	9	9	1	—	1	—	—	—
Hampden . . .	65	34	6	17	2	1	3	1
Hampshire . . .	7	7	3	3	—	—	—	—
Middlesex . . .	107	131	40	40	11	5	4	7
Nantucket . . .	—	—	—	—	—	—	—	—
Norfolk . . .	42	26	3	5	8	3	—	—
Plymouth . . .	19	7	5	5	1	—	—	1
Suffolk . . .	(1)	—	289	291	—	—	61	17
Worcester . . .	89	36	14	18	9	3	—	2
Total . . .	412	360	400	421	46	16	75	32

Grand total 1,762

(1) Motor Torts in Suffolk are not segregated but are included in "Other Torts."

* These tables were prepared with the assistance of the clerks of court in the various counties and of T. Francis O'Brien, Esq., of the Middlesex County bar.

† By Dunbar F. Carpenter, Esq., in the *Massachusetts Law Quarterly* for August, 1929.

CONTRACT.

COUNTY	JURY.		JURY WAIVED.	
	Plaintiff.	Defendant.	Plaintiff.	Defendant.
Barnstable	—	—	—	—
Berkshire	3	1	3	—
Bristol	12	—	3	3
Dukes	1	—	—	—
Essex	29	12	5	—
Franklin	2	2	4	—
Hampden	9	11	5	2
Hampshire	4	6	—	—
Middlesex	49	20	8	8
Nantucket	—	—	—	—
Norfolk	9	2	7	1
Plymouth	9	6	2	—
Suffolk	192	114	25	23
Worcester	27	8	14	8
Total	346	182	76	45

Grand total 649

Grand total for torts and contracts 2,411

SUMMARY AND ANALYSIS OF VERDICTS AND FINDINGS FOR THE YEARS 1928 AND 1929.
TORT.

	JURY.				JURY WAIVED.			
	Verdicts for Pltf.	Verdicts for Deft.	Total Verdicts.	Percentage of Verdicts for Pltf.	Verdicts for Pltf.	Verdicts for Deft.	Total Verdicts.	Percentage of Verdicts for Pltf.
1928	268	257	525	51	616	616	1,232	50
1929	412	360	772	53	400	421	821	48

JURY WAIVED.

1928	131	19	150	87	68	25	93	73
1929	46	16	62	74	75	32	107	70

CONTRACT.

	JURY.				JURY WAIVED.			
	Verdicts for Pltf.	Verdicts for Deft.	Total Verdicts.	Percentage of Verdicts for Pltf.	Verdicts for Pltf.	Verdicts for Deft.	Total Verdicts.	Percentage of Verdicts for Pltf.
1928	444	215	659	67	98	38	136	72
1929	346	182	528	65	76	45	121	63

The next table is a summary of the last.

	Total Verdicts for Pltf.	Total Verdicts for Defts.	Percentage of Verdicts for Pltf.	Total Findings for Pltf.	Total Findings for Defts.	Percentage of Findings for Pltf.
1928	1,328	1,088	55	297	82	78
1929	1,158	963	54	197	93	68

	Total Verdicts and Findings for Plaintiffs.	Total Verdicts and Findings for Defendants.	Total Verdicts and Findings.	Percentage of Verdicts and Findings for Plaintiffs.	Percentage of Verdicts and Findings for Defendants.
1928	1,625	1,170	2,795	58	42
1929	1,355	1,056	2,411	56	44

The percentages of verdicts and findings for plaintiffs in 1929 show no noteworthy disparity from 1928.

The amounts of all the verdicts and findings for the years 1928 and 1929 are as follows:

AMOUNTS OF VERDICTS OR FINDINGS FOR PLAINTIFFS.

	\$1 to \$500.	\$501 to \$1,000.	\$1,001 to \$2,500.	\$2,501 to \$5,000.	\$5,001 to \$7,500.	\$7,501 to \$10,000.	\$10,000 to \$20,000.	Over \$20,000.	Totals.
TORT.									
Jury:									
1928 Motor Torts	137	47	40	26	8	7	3	—	268
1929 " " " "	176	73	74	51	20	3	14	1	412
1928 Other Torts	274	94	132	65	24	17	10	4	620
1929 " " " "	180	65	55	66	15	9	9	1	400
Jury Waived:									
1928 Motor Torts	53	28	26	12	5	2	3	—	129
1929 " " " "	20	13	8	5	—	—	—	—	46
1928 Other Torts	49	11	4	1	1	1	1	—	68
1929 " " " "	43	12	9	7	2	1	1	—	75
CONTRACT.									
1928 Jury	210	99	87	26	8	5	6	2	443
1929 " " " "	149	78	75	29	6	4	4	1	346
1928 Jury Waived	59	16	14	7	3	—	—	—	99
1929 " " " "	28	14	21	10	—	—	—	3	76
1928 Totals	782	295	303	137	49	32	23	6	1,627
1929 " " " "	596	255	242	168	43	17	28	6	1,355

PERCENTAGES OF VERDICTS OR FINDINGS UNDER \$500, AND UNDER AND OVER \$1,000

	\$500 or Under.	\$1,000 or Under.	Over \$1,000.
TORTS.			
Jury:	<i>Per Cent.</i>	<i>Per Cent.</i>	<i>Per Cent.</i>
1928 Motor Torts	51	69	31
1929 " " " "	42	60	40
1928 Other Torts	44	59	41
1929 " " " "	45	60	40
Jury Waived:			
1928 Motor Torts	41	62	38
1929 " " " "	43	71	29
1928 Other Torts	72	88	12
1929 " " " "	57	73	27
CONTRACTS.			
1928 Jury	47	70	30
1929 " " " "	43	66	34
1928 Jury Waived	60	76	24
1929 " " " "	37	55	45

851 of the 1,355 verdicts and findings for plaintiffs, or 63%, are for amounts not in excess of \$1,000; 410, or 30%, run from \$1,000 to \$5,000; while only 94, or 7%, are for sums in excess of \$5,000.

The percentages do not vary significantly from those of the previous year.

The recommendations in regard to the congestion due to motor vehicle cases which we made in the last report were all referred for further consideration to the Special Commission on Motor Vehicle Insurance by chapter 40 of the Resolves of 1929, and we await its report before discussing further the problem created by motor vehicle civil cases.

The problem of making petty motor vehicle offences non-criminal as to which we also made recommendations (see Fourth Report, pp. 37-41), was referred for further study to the Department of Public Works by Resolves chapter 45 and we await the report of that department on that subject.

The act authorizing the chief justice of the Superior Court to call up District Court judges to try misdemeanor cases with juries, the continuation of which we believe to be vital to the administration of the criminal law, was extended until December 31, 1932, by St. 1929, ch. 290. While we still believe it should be made permanent there is no occasion for immediate action.

A Plan for Measured Service and Compensation for Judges of Advancing Age.

We believe thoroughly in our constitutional system of appointment of judges with tenure "during good behavior," which has stood the test of a century and a half of practical experience; but, under the conditions of modern life, we think it needs to be supplemented in the manner hereinafter suggested.

A judge, as he grows older, is likely to feel the strain and not be physically equal to effective full-time service at a period when his judicial capacity and experience may still be of great value to the public. The growing public interest in more expeditious and businesslike administration of the courts has called attention to the situation. Many judges at the age of seventy years, and a few for some years thereafter, are still sufficiently vigorous for full-time service. The problem, then, is to retain the services of the judges according to their strength by providing an elastic system under which the amount of service required may be adjusted and their compensation measured by the service rendered.

Reference was made to this problem in our third report in 1927,

and again in our fourth report in 1928. This need has been felt and met in other states in various ways. Our study of the problem has been greatly helped by the information which we have received from officials in these states.

We expressly disclaim at the outset any intention to create or extend a pension or retirement allowance scheme. Briefly stated we desire to accomplish one object only — to maintain the maximum working capacity of the courts, and to that end

(a) To improve the conditions in our courts by adjusting the services of judges to advancing age while conserving to the Commonwealth the full measure of ability and experience of these judges as long as they are strong enough to serve.

(b) To emphasize the importance and establish the place in our judicial system of the fifty-eighth amendment to our Constitution.*

The constitutional tenure "during good behavior" was established to encourage and protect judicial independence and impartiality and not to provide for a life tenure of office without effective and continued service. Judges hold office solely in accordance with the constitutional phrase "during good behavior" which implies, of course, a continuance of the judicial service for which they are appointed. No judge has ever been appointed to his position "for life." They are removable by address of both houses for any reason, as Judge Bradbury was removed from the Supreme Judicial Court in 1803, for incurable illness. They are also removable "after due notice and hearing" (unless hearing is waived) by the Governor and Council "because of advanced age or mental or physical disability" under the fifty-eighth amendment, which amendment has existed in the Constitution since 1919. The provisions of this amendment have been used but once. There is in our opinion no doubt of the constitutional power of the Legislature to enact such laws as will adjust the amount of service and compensation on a measured basis as we have above suggested.

Accordingly we propose, as a measure of sound policy in the interest of economical and effective use of the judicial power, that a justice of the Superior Court, of the Land Court or of the Municipal Court of the City of Boston shall be given the option after fifteen years of judicial service as a full-time judge to be put, at his request, on a part-time basis of not less than half-time and be paid for that service a proportionate amount of the full salary; that at

*The 58th amendment provides "that the Governor with the consent of the Council, may after due notice and hearing retire them [judicial officers] because of advanced age or mental or physical disability. Such retirement shall be subject to any provisions made by law as to pensions or allowances payable to such officers upon their voluntary retirement."

the age of seventy each judge of said courts be automatically placed on such half-time basis subject to a call to service for half-time or for more than half-time, if he is able and willing, by the chief justice of the Superior Court or the Municipal Court of the City of Boston or by the judge of the Land Court and that he be paid a proportionate amount of the full salary measured by the service rendered upon certificate of the chief justice or judge. This plan would not affect the judicial tenure in the slightest degree. The part-time judge would still remain a judge in every respect with all the powers and duties of a judge except the duty of full-time service, and the compensation would be measured by that service. A judge of seventy years, or more, who was still vigorous enough for full-time service could still be called upon by the chief justice or judge for full-time. As a part of our scheme we recommend that in the Superior Court for every two justices thus put on a half-time basis a vacancy be created in the regular number of justices to be filled by a new appointment. In the other two courts mentioned, where the number of judges is much smaller, a vacancy should be created by each retirement.

The situation in the Superior Court is such, so far as the volume of business is concerned, that there will always be work enough which can be done by such part-time judges. Among other things, by holding additional jury-waived sessions, they may obviate the necessity of a number of references to masters or auditors, thus saving a part of what is now a heavy expense to the counties and litigants.*

The Land Court with a heavy docket has only three judges and the Municipal Court of the City of Boston with a chief justice, eight associate justices and four special justices and a large and increasing volume of business will furnish abundant opportunity for service by regular justices and part-time justices as well.

We believe that the plan above outlined is simple, practicable and constitutional and that it would improve the entire judicial system, preserve and prolong the valuable service of experienced judges, be more economical than the present arrangement, and that it would, at the same time, bring the fifty-eighth amendment into practical operation when necessary for the good of the service in a way which is desirable and expedient.

The fifty-eighth amendment was intended to supplement the purpose of the twenty-ninth article of the Bill of Rights and of the

* The table in Appendix B, p. 75, shows the amounts paid for master, auditors, etc., by each county, in each year, from 1923 to 1928. The total paid by all the counties in 1928 was \$162,246.19.

third chapter of the Constitution and thereby to provide and maintain a vigorous, effective, independent and impartial judiciary.

Under the plan which we propose, every judge upon reaching the age of seventy will automatically go on a measured service basis, and if thereafter he is unable to serve for half time in any one year that fact will readily become known and if his weakened condition appears to be sufficiently permanent the procedure for involuntary retirement under the fifty-eighth amendment can be brought into operation. The amendment was adopted for practical use under the circumstances which we are describing.

To carry out the proposed plan, we submit the following draft act.

An Act to Provide for Part-time Service and Measured Compensation for Judges of Advancing Age.

Section 1. Section one of chapter two hundred and twelve of the General Laws, as amended by section three of chapter five hundred and thirty-two of the acts of nineteen hundred and twenty-two and by section one of chapter three hundred and four of the acts of nineteen hundred and twenty-five is hereby further amended by adding at the end thereof the words: — and such associate justices and chief justices as shall have retired to part-time service as provided by law.

Section 2. Section two of chapter one hundred and eighty-five of the General Laws as amended by section one of chapter two hundred seventy-one of the acts of nineteen hundred twenty-four is hereby further amended by striking out said section two and inserting in place thereof the following, "The Land Court shall consist of three judges, one of whom shall be appointed, commissioned and qualified as a judge, and the other two as associate judges, and of such judges or associate judges as shall have retired to part-time service as provided by law".

Section 3. Section fifty of chapter two hundred eighteen of the General Laws is hereby amended by adding at the end of the first sentence thereof the words, "and such associate justices and chief justices as shall have retired to part-time service as provided by law".

Section 4. An associate justice of the Superior Court, an associate judge of the Land Court or an associate justice of the Municipal Court of the City of Boston who has or shall hereafter have served for fifteen years or more as a justice or judge of such court may with the approval of the Governor and Council, and any such justice or judge who has reached or shall hereafter reach the age of seventy years shall, retire to part-time service subject to the call of the chief justice or, in case of the Land Court, to the call of the judge of said court. Thereafter the justice or judge thus retired shall not be required under his commission to serve as a justice or judge for more than one-half time. To the extent of such half-time service, he shall be subject to the call of the chief justice or judge and shall receive one-half of the full salary. The chief justice or judge may also call upon such a retired justice or judge for more than such half-time service if he is able and willing to serve and to the extent of the service so rendered he shall receive a proportionate amount of the salary for full-time service upon certificate of the chief justice or judge. In the

Superior Court, upon such retirement of two justices and in the Land Court and in the Municipal Court of the City of Boston upon such retirement of one judge or justice, a vacancy in the number of justices or judges provided by law shall exist which shall be filled according to law. A chief justice of the Superior Court or of the Municipal Court of the City of Boston who has served for fifteen years or more as a justice or chief justice of such court may at any time, and upon reaching the age of seventy shall, retire to the part-time service of a justice of such court described herein. Upon such retirement a vacancy shall exist in the position of chief justice. A new chief justice shall be appointed and thereafter the duties of such retired chief justice shall be those of a retired justice subject to the call of the chief justice as provided herein and the compensation therefor shall be measured accordingly. The foregoing provision as to chief justices shall apply also to the position of judge of the Land Court.

Section 5. The commission of each chief justice or associate justice or judge of any of said courts hereafter appointed may contain a statement of the age of such judge at the time of his appointment and, if the commission contains such statement, it shall be conclusive evidence for the purposes of this act; if such statement is not contained in the commission the person so appointed shall, before receiving any salary, file in the office of the Secretary of the Commonwealth a certified copy of the record of his birth or, if there is no such record available, a statement signed by him showing the date and place of birth to the best of his knowledge and belief, and such record or statement so filed shall be conclusive evidence for the purposes of this act in cases in which the commission does not contain a statement of the age of the judge.

The chief justice or judge of each of said courts shall forthwith upon the taking effect of this act certify to the Governor and Council his own age and that of any associate justice or judge of his court who shall have reached the age of seventy years and shall make a similar certificate when any associate justice or judge shall hereafter reach the age of seventy years. Such certificates shall be conclusive evidence for the purposes of this act.

The District Courts present a more difficult problem. We have as yet found no satisfactory method whereby a justice of one of these courts can retire to part-time service. As the law now stands, a District Court judge who was appointed before July 1, 1921, and has reached the age of seventy years after twenty successive years of service may resign his office or be retired under the fifty-eighth amendment and thereafter receive three-fourths of the salary paid to the justice of his court immediately prior to January 1, 1924. A justice appointed after July 1, 1921, may be retired under the fifty-eighth amendment and thereafter receive one-half of the salary paid to him immediately prior to July 1, 1921. Should such a judge appointed after July 1, 1921, resign he would receive no pension or retirement allowance.

We are informed that the ages of the District Court judges as of October 1, 1929, were:

1 below forty years of age.
12 from 40 to 49, inclusive.
17 from 50 to 59, inclusive.
23 from 60 to 69, inclusive.
15 from 70 to 79, inclusive.
4 from 80 to 89, inclusive.

Since October 1, one of the judges in the last class has resigned.

We shall continue our study of this problem for it is, in our opinion, of the greatest importance that there should be no failure of justice due to "advanced age or mental or physical disability."

The Problem of Technical Assistance in Land Registration.

The Council has made a study during the past year of some of the problems which are presented in the organization and procedure of the Land Court. As a result of this study we desire to call attention to certain matters which seem to us to need consideration by the Legislature and to make certain recommendations for additional legislation.

(1) The Land Court is a court in the true sense of the word. It was created in 1898. The Act as finally adopted in this Commonwealth was unique in the judicial character of the registration proceedings. The business of the court has grown steadily. Massachusetts land having a value of millions of dollars has been developed through the possibility of creating marketable titles. As a result of the successful administration of the court the Legislature has from time to time transferred to it practically all business involving land formerly passing through the Superior Court, and in addition has added new classes of business of growing proportions. One fact which has not received the consideration it ought is that the Land Court is the only court in the Commonwealth in which the Commonwealth itself may be subjected to liability because of mistakes of its officials in dealing with the subsequent transfer and registration of title after the original registration. In this respect the judges and assistant recorders have a burden of responsibility borne by no other court. The pecuniary liability of the Commonwealth results from acts which are not administrative but judicial in character and which require technical knowledge in many instances to properly safeguard the interests of the Commonwealth as well as the parties involved in the proceedings.

In order that the growth in the volume of the business of this court may be understood, we cite a few statistics:

In 1906 there were 347 new registration cases. In 1916 — 513,

and in 1926 — 721. The assessed valuation of the lands to which title was registered was in 1906 — \$3,350,000; in 1916 — \$4,850,000 and in 1926 — \$13,240,000. The original assessed valuation of all registered land was in 1906 — \$16,000,000; in 1916 — \$61,000,000 and in 1926 — \$135,000,000. In 1928, there were 459 supplemental petitions filed affecting land already registered.

The foregoing statement and statistics should serve to establish the Land Court as one of the large units in our judicial system. It is not and never has been an administrative body or quasi judicial in character. It should be thought of and at all times treated as a court.

(2) The growing volume of business has thrown a greater burden upon the personnel of the court. In addition to the judges, the recorder and the staff attached to the court in Boston, it functions through the registries of deeds and assistants in the registries. The Land Registration Act provides that the registers of deeds in their respective districts shall be assistant recorders of the Land Court. Certified copies of decrees for registration are transmitted to the registers of deeds who thereupon enter certificates of title and issue duplicate certificates to the registered owners. Thereafter all transactions affecting the land depend for their validity and effect upon the act of the register of deeds as assistant recorder in making registration. Deeds and other instruments executed by the parties are mere contracts authorizing the assistant recorder, upon surrender of the certificate of title, to make registration in accordance therewith. Certificates are conclusive evidence as to all matters contained therein in all courts of the Commonwealth. The land remains under the jurisdiction of the court and every act of an assistant recorder is done under the direction or standing order of the court. After registration the Commonwealth is liable in damages to any person who, without negligence on his part, sustains loss or damage through any error, omission, mistake or misdescription in any certificate of title.

The burden thrown on the assistant recorders differs according to the amount of business transacted. It is usual in the larger districts for these assistant recorders to employ technical assistants who give their entire time to land registration matters. Such employment is not practicable in the small counties.

The duties of the assistant recorders are highly technical and while doubtful questions may be referred to the court, yet because of the technical detail involved there may be delay as a result. It must be borne in mind that the registers are as a rule not lawyers

and they have no technical training for their work as assistant recorders. The registers themselves are liable to the Commonwealth in case of any loss. This liability is a serious matter and tends to make the assistant recorders seek advice as to all matters.

As registers of deeds they are elected by the people and thus are largely independent of the court. There has been up to this time no conflict but there ought to be specific legislation which will have the effect of making them in their several capacities as assistant recorders officials of the Land Court and directly responsible to that court.

(3) As has been stated above, the assistant recorders in some of the larger districts employ special assistants who become trained in their work but these assistants are under the control of the registers and are in no way related to the Land Court, except as they perform work subject to orders or instructions therefrom. The Land Court has no power to determine the qualifications, the character of the service or the salary to be paid for these assistants. To a certain extent at least this is an anomaly in any court. The court should be able to control those who have to do with it.

In some of the registries certificates of title have, through lack of technical assistance and for other reasons, become, at times, so complicated that there have been complaints on the part of conveyancers. The court has from time to time endeavored to straighten out such situations by sending the deputy recorder and the engineer of the court to the scene of the difficulty. But the system should be changed so that such situations would not develop.

(4) There ought to be at least two deputy recorders who could give time both to the work in the home office and in the several registries of deeds according as their services may be needed. There would thus be saved a considerable amount of delay, the necessary technical advice could be given to the assistant recorders who are registers of deeds and to the trained assistants in those districts where such are employed. These deputy recorders should be appointed by the court and subject to its direction. The technical assistants to the "assistant recorders" in the various counties should be appointed by the "assistant recorders" subject to the approval of the Court and subject to the direction of the Court.

(5) The Land Court is a state institution. It is an income producer for the state. Almost all money received in the courts goes to the state. All expenses of the court should be borne by the state. Therefore the salaries of the deputy recorders above suggested and the salaries paid to trained assistants in the offices of the registers of deeds should likewise be paid by the state. The amount thus

to be paid should be determined by the judges with due regard to the volume of business, the technical ability and the amount of time thus spent, subject, of course, to the approval of the Governor and Council. We see no reason why the counties should carry the expense.

We recommend the following act.

Act to Provide for Technical Assistants in the Land Court.

Section 1: — Section six of chapter one hundred eighty-five of the General Laws is hereby amended by adding at the end thereof the following sentence: — "The judge may appoint deputy recorders. They shall perform such duties as the court shall assign to them. Their compensation shall be fixed by the judge, subject to the approval of the governor and council."

Section 2: — Section eight of chapter one hundred eighty-five is hereby amended by adding after the word "recorder" in the first line the following words: — "and any deputy recorder"; and by striking out the word "he" in the second line so that said section shall read as follows: —

Section 8. The recorder and any deputy recorder may act in any county, and after land has been registered, may make all memoranda affecting the title and enter and issue certificates of title as provided in this chapter.

Section 3: — Chapter one hundred eighty-five of the General Laws is hereby further amended by inserting after section ten the following new section — 'Ten-A: —

Section 10-A: — The assistant recorder in any county may, with the approval of the judge of the land court, appoint one or more technical assistants whose compensation shall be fixed by the judge of said court subject to the approval of the governor and council and paid by the commonwealth, and who shall perform such duties as the court may from time to time direct.

Bills of Exceptions.

In the Second Report (Pub. Doc. 144 of 1926) the Judicial Council recommended that the requirement that the evidence in bills of exceptions shall be stated in a "summary" manner or "narrative form" be done away with and that the evidence should be stated by question and answer, except such parts as may be omitted by agreement of parties with the consent of the judge, unless the parties agree upon, or the court orders, the narrative form. We are informed that one reason why this recommendation was not favorably considered by the Legislature was the fear of the cost of printing the evidence. The cost of printing the record on exceptions or appeal has been a matter of serious criticism from the bar and from clients. The typewriting of the evidence by the court stenographer is expensive and, with the printing bill added, the cost

of preparing the record is still more expensive. While a printed record is somewhat easier for the justices of the Supreme Judicial Court to read, yet it has been suggested to us that the burden of expense upon the litigant in many cases seems unreasonable. As stated in our Second Report, p. 36, "the ultimate question, after all, must be as to the best method of securing justice for the litigants at the least practicable expense."

While many parties, especially in cases with relatively short records, may prefer to print, it has been suggested that the party who is to pay for the preparation of the record, in the first instance, should be given the option of printing, or photostating, or of sending up the required number of copies of the record in typewritten form in order to reduce the required burden of expense. If such a plan should be adopted the provisions of G. L. ch. 221, sec. 87, fixing the price for copies of the notes by court stenographers at ten cents a hundred words for each copy would seem to govern the cost of typewriting. By the use of thin paper and thin carbon, eight reasonably legible typewritten copies can be made at one stroke of the typewriter. We mention this because all the work of the Judicial Council since its creation in 1924 has been done by the use of copies thus made, so that we speak from experience in the use of such material. The bar does its work with typewritten material.

If the plan thus suggested should be adopted doubtless the practice would generally continue of printing the briefs, and this seems to us desirable as the test of print in preparation is likely to produce better briefs. We have this matter still under consideration.

Entries in the Regular Course of Business.

In the normal conduct of business operations transactions of various kinds are made matters of record by entries in books or on cards or sheets, sometimes made by a participant in the transaction but often by one to whom information of the facts is communicated by others in regular course. The participants in the various steps of the transaction as finally recorded may have been many. Technical proof of the facts may, under the common law rules of evidence, be very difficult or impossible, and yet the record is one upon which the business man and those dealing with him rely absolutely in conducting their affairs. That evidence thus recognized as reliable outside the court room should not be received in court, especially where technical proof may be so burdensome and difficult, has long been a subject of annoyance to business men and of dissatisfaction

to the profession. The demand for an improvement in the law was sufficiently insistent in this Commonwealth to lead some years ago to the passage of a statute remedying the difficulty so far as account books are concerned. See St. 1913, c. 288, now G. L. c. 233, §78.

There are, however, records of various facts or transactions, not matters of accounting, which are just as reliable as account books and which we think should be dealt with in the same way. A general statute covering all kinds of entries made in the regular course of business is strongly recommended by the committee of lawyers whose valuable suggestions as to improvements in the law of evidence have recently been published by "The Commonwealth Fund." The recommendation is endorsed by judges in our own state and must commend itself to the practicing lawyer. In New York and in Rhode Island the statute in an inclusive form has already been enacted.

The admissibility of other books and records should, of course, be safeguarded by the same requirement of a preliminary finding by the court as now constitutes a condition precedent to the admission of account books. The desired result can be readily accomplished in Massachusetts by a simple amendment of the statute concerning account books, broadening its scope so as to include records of other kinds. We recommend accordingly that G. L. c. 233, §78, be amended so as to read as follows:

An Act as to Entries in the Course of Business.

Section 1. Section 78 of chapter two hundred and thirty-three of the General Laws is hereby amended by striking out the same and substituting therefor the following:

An entry in an account kept in a book or by a card system or by any other system of keeping accounts, or a writing or record, whether in the form of an entry in a book or otherwise, made as a memorandum or record of any act, transaction, occurrence or event shall not be inadmissible in any civil proceeding as evidence of the facts therein stated because it is transcribed or because it is hearsay or self serving, if the court finds that the entry, writing or record was made in good faith in the regular course of business and before the beginning of the civil proceeding aforesaid and that it was the regular course of such business to make such memorandum or record at the time of such act, transaction, occurrence or event or within a reasonable time thereafter. The term "business" shall include business, profession, occupation and calling of every kind. The court, in its discretion, before admitting such entry, writing or record in evidence, may, to such extent as it deems practicable or desirable, but to no greater extent than the law required before April eleventh, nineteen hundred and thirteen, require the party offering the same to produce and offer in evidence the original entry, writing, document or account or any

other form from which the entry, writing or record offered or the facts therein stated were transcribed or taken, and to call as his witness any person who made the entry, writing or record offered or the original or any other entry, writing, document or account from which the entry, writing or record offered or the facts therein stated were transcribed or taken, or who has personal knowledge of the facts stated in the entry, writing or record offered. When any such entry, writing or record is admitted, all other circumstances of the making thereof, including lack of personal knowledge by the entrant or maker may be shown to affect its weight.

Judicial Supervision of Settlements on Behalf of Minors.

During the past year the Superior Court which provided for approval by the court of settlements in cases brought on behalf of minors for personal injuries, etc., was repealed. The repeal of the rule by the court seems to us unfortunate. As pointed out in our last report on page 30, supervision by the court of such settlements was emphatically recommended by Judge Wasservogel as a result of his investigation of the practices of the bar in New York in 1928. As appears in the circular of the Administrative Committee of the District Courts, reprinted in Appendix A, page 70, the practice of judicial supervision of such settlements is regarded as an important and serious function of those courts and is performed with care, and its general performance by all the district courts is recommended by that committee. If the District Court justices find this practice to be in the interest of justice we feel that it must also be in the interest of justice in the Superior Court and that the practice might well be revived in that court.

Theft of Bar Examination Papers.

The community was startled several years ago by the news that the contents of the examination papers for admission to the bar had been stolen in advance and sold to some of the candidates for admission. As a result of the discovery the Bar Examiners discarded the whole examination and required all the candidates for admission at that time to take a second examination. The matter was investigated by the then Attorney General and criminal proceedings were begun which after several years were reported to have been dropped for failure to obtain sufficient evidence to warrant proceeding with the cases. The difficulty appears to have been that the only form of criminal proceeding practically applicable to such a situation was a common law indictment for conspiracy to work a fraud upon the Commonwealth, and the difficulty of proving such a conspiracy beyond a reasonable doubt was the obstacle in the way of further prosecution of the cases. While we hope there

will be no further occasion for such proceedings in the future, we do not think that the lack of effective procedure for dealing with such a situation should continue.

General Laws, chapter 31, sections 11 and 51, provide a penalty for furnishing special or secret information in connection with civil service appointments. After conferring with former Assistant Attorney General Alfred R. Shrigley, who investigated the cases referred to, we recommend the following draft act.

Chapter 221 of the General Laws is hereby amended by inserting after Section 37, the following new section:

Section 37a. A person who shall wilfully or corruptly exhibit or disclose or obtain or distribute an examination paper or any question for admission to the bar, or copies thereof, or the contents or any part of the contents thereof, prior to the examination for which said paper or question has been prepared shall be punished by a fine of not less than dollars, or by imprisonment for not more than years, or by both fine and imprisonment.

The Comfort of Witnesses in Court.

It is the common practice in our courts for witnesses to stand while testifying. Hence the reference to the "witness stand." We understand that, in other states, the practice is to provide a witness chair as a matter of course. We think our practice should be changed and that witnesses should be provided with a chair as a matter of course so that they may sit down if they wish to. Being subjected to examination and cross-examination is a sufficient ordeal without adding physical fatigue. Persons differ greatly in their ability to stand still for any length of time without fatigue and while, of course, a considerate judge, if his attention is called to it, may ask a witness if he or she wishes a chair, many doubtless hesitate to accept the suggestion for fear of seeming weak or peculiar. It is important that witnesses should keep their minds as clear as possible and this is not easy if they are tired. In some of our courts the practice has already been established of providing chairs for witnesses.* We recommend that every courtroom in the Commonwealth be provided with witness chairs so that witnesses may stand or sit when they please. While legislation may not be strictly necessary yet in order to secure uniformity of practice we recommend the following act.

An Act Relating to Witnesses.

Section 1. The witness stand in every courtroom in the Commonwealth shall be provided with a chair for the convenience of witnesses.

Section 2. This act shall take effect upon its passage.

* A witness box has been specially designed for this purpose by one of our judges. A picture of it may be obtained from the secretary of the Judicial Council.

Survival of Actions.

The present statute, G. L., c. 228, s. 1, provides that

"In addition to the actions which survive by the common law, the following shall survive; actions of replevin, tort for assault, battery, imprisonment or other damage to the person, for goods taken and carried away or converted, or for damage to real or personal property, and actions against sheriffs for the misconduct or negligence of themselves or their deputies."

Under this statute an action of deceit does not survive and if a person who has been defrauded by misrepresentations dies even after he has brought suit and before a judgment in his favor is entered his estate is left remediless and the defendant who was guilty of the fraud may keep the proceeds thereof. So, too, a plaintiff is remediless if a defendant dies after a suit has been brought against him. We see no reason why such an action should not survive in favor of the estate of the defrauded person whether suit has been brought or not, or against the estate of the defendant if suit has been commenced before the death of the defendant.

On the other hand we think it would be inadvisable to allow the action to survive against a defendant's estate unless suit has been commenced before his death as this might lead to the invention of false charges of fraud and the commencement of suits after his death which would not be brought if he were alive to dispute them.

Accordingly we recommend that the section quoted be amended by adding at the end thereof the words

"An action of deceit shall survive in favor of the estate of the plaintiff, and, if action has been commenced before the death of the defendant, an action of deceit shall also survive against the representatives of the defendant in such action provided however that an action of deceit shall not survive against the estate of the defendant unless suit has been brought before his death."

Section 4 of said chapter would seem to apply automatically to such a case without change.

DISTRICT COURTS.

1. Time for Reports to Appellate Divisions of District Courts.

Chapter 532, section 8, Acts of 1922, provided for the establishment of an appellate division for each of the District Courts of the Commonwealth for the re-hearing of matters of law arising in civil causes therein. Prior to the enactment of this act, there had been for some years an appellate division of the Municipal Court of the

City of Boston. Matters come before the Appellate Division by report from the trial court. It is provided in said section 8 that, "The request for such a report shall be filed with the clerk within two days after notice of the ruling." It has been found in actual practice that, while this provision is reasonable for use in the Municipal Court in the City of Boston, the time allowed is too short for satisfactory procedure in the District Courts of the Commonwealth. The Administrative Committee of the District Courts has suggested that this section be amended to meet this difficulty and that the time for filing of such a request be extended, so far as the District Courts are concerned, to five days.

We recommend the following statute:

Section 110-B of chapter 231 of the General Laws inserted therein by section 8 of 532 of the acts of 1922, is hereby amended by striking out the word "two" in the thirteenth line thereof and substituting therefor the word "five" so that the sentence in which the word appears shall read, "The request for such a report shall be filed with the clerk within five days after notice of the ruling and when the objection is to the admission or exclusion of evidence the request for a report shall also be made known at the time of the ruling."

2. Mandatory Inquests.

We have in previous reports recommended a change in the statutes whereby mandatory provisions as to inquests in deaths by accident upon a railroad, electric railroad, street railway, railroad for private use, or in which a motor vehicle is involved, shall be limited to certain cases. Our recommendations have not met with favor largely, we believe, because we have not clearly set forth the existing law and the reasons for the suggested change.

When the office of coroner was abolished in 1877 — more than fifty years ago — the Legislature by Chapter 200 of the Acts of 1877, provided that inquests should be held in all cases of deaths by accident upon any railroad. This provision was embodied in Chapter 26 of the Public Statutes. The railroad of that time was vastly different from the railroad we know. It is not necessary to enter into any detailed enumeration of the reasons for the then required inquest for they readily suggest themselves.

In 1894, the Legislature, by Chapter 35, provided for the appointment of steam railroad inspectors. Among their duties they were required to investigate all railroad accidents, to attend the inquests and to cause all persons having knowledge of the circumstances of the death to be summoned as witnesses at the inquest. Chapter 376 of the Acts of 1897 extended the duties of such inspectors in the following language:

"An inspector shall investigate as promptly as may be any accident upon or resulting from the operation of a railroad or street railway which is attended with loss or risk of life to a passenger, employee or other person and shall report thereon to the Board of Railroad Commissioners and shall attend the inquest" etc.

The next important change came through Chapter 257, section 147 of the Acts of 1918, when deaths in which motor vehicles were involved were included in the mandatory provision. The law now reads as follows:

"Within sixty days after any case of death by accident upon a railroad, street railway or railroad for private use an inquest shall be held and the court or justice shall give reasonable notice of the time and place thereof to the Department of Public Utilities. Within a like period after any case of death in which a motor vehicle is involved an inquest shall be held and the court or justice shall give seasonable notice of the time and place thereof to the Department of Public Works."

In all other cases of death by violence, it is discretionary with the court whether an inquest shall be held or not. Last year the Boston Municipal Court held 142 and the District Courts held 980 inquests, nearly all under the foregoing statutory requirements. The time consumed and the cost might in our judgment have been largely saved without any loss if the mandatory provision had not been in the statute. The fatal accidents on railroads involve passengers, travellers at grade crossings, employees and trespassers. The first two classes furnish very few cases. While we have no official figures we believe the trespasser was much the largest in number. Fatal accidents so far as the street railways are concerned are now relatively few in number and are usually confined to pedestrians or motorists. All of these cases are first investigated by the medical examiner and then by one of the inspectors above-mentioned. In most of these cases the municipal or state police are called in to aid and so directly or indirectly likewise make investigation. It is doubtful if a single case has been found in many years in these two classes of deaths where the court has found the unlawful conduct of any person has contributed to a death and complaint or indictment has followed. Of course, the purpose of any inquest is to determine whether there has been any unlawful conduct calling for criminal procedure against the guilty party.

Deaths due to accidents in which motor vehicles are concerned have of late been all too numerous and frequent. These deaths are

always investigated by the medical examiner, by municipal or state police and by an inspector attached to the staff of the Registrar of Motor Vehicles. There is no uniformity of procedure in the latter class of cases in our District Courts. In practically all cases an arrest is made forthwith. Then one of two methods is followed:

(1) The case is continued until an inquest can be held. When a report is made by the justice holding the same the original case proceeds or if the report warrants an additional charge or charges they are filed against the party.

(2) The party under arrest is tried for manslaughter or one of the serious offenses named in chapter 90, the motor vehicle law, and an inquest is held at the same time, the witnesses being sworn for both the trial and the inquest. Both of these procedures are open to some criticism and are awkward and we believe unnecessary. In our opinion the individual and the public will be given adequate protection, much time valuable for other purposes will be saved and a considerable saving in expense accrue, if the mandatory are changed to discretionary provisions except where there shall be a written request for an inquest filed with the court by a public official.

Accordingly we suggest the law be changed to read as follows:

"The court or trial justice shall thereupon in his discretion, except as herein-after set forth, hold an inquest from which all persons not required by law to attend may be excluded. The District Attorney or any person designated by him may attend the inquest and examine the witnesses who may be kept separate so that they cannot converse with each other until they have been examined. The court or justice shall hold an inquest within sixty days after any case of death by accident upon a railroad, electric railroad, street railway or railroad for private use if a written request shall be made therefor by the Attorney General, a District Attorney, a Chief of Police or the Department of Public Utilities, and in any case of death in which a motor vehicle is involved if written demand be made therefor by the Attorney General, a District Attorney, a Chief of Police or the Registrar of Motor Vehicles and the court or justice shall give seasonable notice thereof to the Department of Public Utilities or the Department of Public Works, according to the type of case."

It must be clearly borne in mind that even with this change there will still be discretion vested in the judges or trial justices so that they may hold inquests, as now, in any case where violence has been a contributing factor in the death and a report has come from a medical examiner. This means that if a person is killed, for example in an elevator or by a fall from a window or in a brawl, the court may if it deems it best hold an inquest. The change will simply relieve the court from unnecessary work or double investigation.

3. Fines in Serious Motor Vehicle Offenses.

The Registrar of Motor Vehicles and the Administrative Committee of District Courts have joined in a suggestion that we recommend an increase of the present maximum fine of two hundred dollars to one thousand dollars in serious offences under the motor vehicle law, Chapter 90 of the General Laws.

We are advised there are cases where a jail sentence with its attendant stigma seems too severe but the present maximum fine of two hundred dollars is wholly inadequate. This applies in such cases as reckless driving, driving under the influence of intoxicating liquor and driving negligently so that the lives and safety of the public might be endangered.

In this connection we call attention also to the record from January 1 to November 12, inclusive, of the current year, in such cases wherein appeals have been taken from jail sentences imposed in the District Courts to the Superior Court:

(1) Appealed jail sentence and given jail sentence	163
(2) Appealed jail sentence and fined	186
(3) Appealed jail sentence and acquitted	49
(4) Appealed jail sentence and not prossed, probation or filed	14

In view of the foregoing facts, it seems wise to us to increase the penalty as suggested and we accordingly recommend that Chapter 90, Section 24, as now amended be further amended to increase the maximum fine to one thousand dollars.

4. Definition of Final Conviction in Cases of "Driving under the Influence of Intoxicating Liquor."

The Administrative Committee of the District Courts has requested us to recommend a new section in General Laws, Chapter 90, as finally amended by the Acts of 1928, Chapter 281. Section 24 *inter alia* makes it an offense for a person to operate a motor vehicle while under the influence of intoxicating liquor and requires a magistrate or other officer authorized to receive complaints before reducing a complaint to writing charging a person with having operated a motor vehicle while under the influence of intoxicating liquor to communicate with the office of the Registrar of Motor Vehicles and inquire as to whether there is in said office any record or other information tending to show that such person has been finally convicted of a like offence by a court or magistrate of the Commonwealth within a period of six years immediately preceding the commission of the offence with which he is charged. It further provides that if it shall appear that such person has been so convicted, the complaint shall contain an averment to that effect

specifying the court or magistrate and the date of conviction. There is further provision that in case of a conviction of a person thus operating a motor vehicle, if the offence is committed within a period of six years immediately following a final conviction of like offence, that the case shall not be placed on file or otherwise disposed of except by trial, judgment and sentence according to the regular course of criminal proceeding, nor the sentence be suspended. There is further provision that for the offence of operating a motor vehicle while under the influence of intoxicating liquor committed within a period of six years as aforesaid the punishment shall be not less than one month nor more than two years.

Considerable difficulty has been encountered in the proper interpretation to be given to the words "final conviction" or "finally convicted" as above used. There are a number of statutes where the penalty to be imposed for a second offence is more severe than for a first conviction. In all such cases the averment of the prior conviction in the complaint or indictment is an essential element of the description of the offence. It is necessary that the record of the court showing the prior conviction and the identity of the defendant be proven unless the defendant confesses it. Therefore such court records should show with technical accuracy the prior conviction.

It has been held in *Attorney General vs. Pelletier*, 240 Mass., at pages 310-311, the word "conviction" implies "a judgment and sentence of the court upon a verdict or confession of guilt" and that "a mere verdict of guilty is not enough."

"Nothing less than a final judgment conclusively establishing guilt will satisfy the meaning of the word 'conviction' as here used."

See likewise *Mariano vs. District Court Judge*, 243 Mass. 90.

In this sense there is no final judgment when the sentence is suspended and the defendant placed on probation upon such terms and conditions as the court shall determine with a continuation of the case to a definite date.

See General Laws, chapter 279, section 1, as amended by statute 1924, chapter 175, and *Finer vs. Commonwealth*, 250 Mass. 493.

During the probationary period the defendant may be surrendered and dealt with by the court, may be sentenced or some other lawful disposition be made of the case. At the expiration of the period of probation the suspension and probation orders may be further continued, or if it appears that the defendant has fully performed and kept the conditions and "the objects of the probation seem to have been accomplished in such a way as not to require any punish-

ment either for his own reformation or in the interests of the public, the court may finally dispose of the case by dismissal of it."

See *Marks vs. Wentworth*, 199 Mass. 94. *Mariano vs. District Court Judge*, 243 Mass. 90.

It seems to follow, therefore, that so long as a defendant is under a suspended sentence and probation he is before the court on a continuance and the case is still a pending one and there can be no record of a final conviction. When the case is ripe for final disposition the court, under and by authority of the cases and statutes above cited, may either dismiss it, affirm or reduce the sentence or make any other proper disposition that ought to be made. Commonly this disposition has been in effect an order that the probation and suspension orders be revoked and the case filed but certain judges have held and it is believed properly in view of the decisions in this Commonwealth that such a disposition is not a final conviction. It does not seem possible to decide upon a formula which will be satisfactory for the purpose and that will accomplish the end sought. Therefore in order to clarify the situation, the Administrative Committee has recommended as aforesaid that a new section be added, to be inserted after Section 24A, and to be captioned 24B, which we recommend as follows:

Section 24B. For the purposes of Section 24 as amended by Section 1 of chapter 274 of the Acts of 1929, a person shall be held to have been finally convicted of driving a motor vehicle while under the influence of intoxicating liquor if he shall have pleaded *nolo contendere* or shall have been found or adjudged guilty by a Court of competent jurisdiction notwithstanding he shall have been placed on probation with or without sentence or the sentence shall have been suspended or the case placed on file provided always that no appeal or bill of exceptions shall be pending.

5. Expenses in Motor Vehicle Cases.

The fees to be paid to witnesses, before certain tribunals, were established by chapter 298 of the Acts of 1929. As a result of this legislation, witnesses in the District Courts are now receiving more than twice the amount heretofore paid. The extra expense now thrown upon the public in criminal cases may well be justified so far as the witnesses are concerned. It seems to us however that in certain cases a portion, at least, of this added burden may well be transferred to guilty defendants. As the law now stands, witness fees in criminal cases in the District Courts are borne by the county; officers' fees are paid by the city or town wherein the offence occurred. Fines and forfeitures are paid to the treasurers of cities and

towns, unless otherwise provided. All fines in motor vehicle cases are paid to the Commonwealth.

The law should be so amended that in motor vehicle cases the actual expenses which, under the present law, may be determined and included in fines, or ordered paid in addition to the maximum fine, shall be deducted by the clerk in remitting such fines to the Commonwealth and credited to the county or municipality chargeable therewith.

Accordingly we recommend that General Laws, chapter 280, section 6, be amended by adding thereto the following paragraph:

"Any such expense thus determined and included in fines in motor vehicle cases or ordered paid in such cases, shall not be remitted to the Commonwealth, but credited to the county, or municipality, required by law to pay such expense, or chargeable therewith."

6. Recognizances.

At the request of the Administrative Committee of the District Court, we suggest that General Laws, Chap. 276, section 57, be amended by inserting at the end of the first sentence in the ninth line, the words, "Where a district court is required by law to sit in more than one town or city a recognizance may, with the consent of the defendant or at his request, run to the next sitting at either of said towns or cities."

7. Debt Collecting.

It has been called to our attention that there is doubt as to whether Chapter 172 of the Acts of 1929, entitled "An Act to expedite the collection of Debts" is applicable to the District Courts. In order that there may be no doubt and that the intention may be clearly expressed, we recommend that this act be amended as follows:

Section 1. Section one hundred forty-one of chapter two hundred thirty-one of the General Laws is hereby amended by inserting after the word "fifty-eight" in the eighth line thereof, and section one hundred forty-three of said chapter is hereby amended by inserting before the word "seventy-one" in the first line thereof, the words "fifty-nine B."

8. Special Justices.

In view of the removal of all limits to the civil jurisdiction of district courts by St. 1929, c. 316, we renew our recommendation that a third special justice be provided for district courts serving a population of more than 100,000.

DOUBLE TRIALS ON THE FACTS IN THE MUNICIPAL COURT OF THE CITY OF BOSTON.

In view of the continued and increasing congestion in the Superior Court, as well as the need of avoiding delay in the administration of the criminal law, we again recommend an act to avoid double trials on the facts in misdemeanor cases entered in the Municipal Court of the City of Boston. A draft of this act appears in our first report on page 135, and the reasons for it on pages 19-21, and again in our fourth report, page 47. A substantially similar plan was recommended by the Judicature Commission in its final report in 1921, pages 95-96, and the Judiciary Committee of the Legislature reported the plan favorably in 1923, but, instead of limiting it to the Boston court, proposed to apply it to all the District Courts. We believe that the plan should be tried first in the Boston court, just as the experiment in regard to the civil appeal system was first tried there in 1912 and was not extended until it had justified itself by experience there. The increasing number of criminal cases and the fact that there were 1,687 appeals in 1929 in the Boston court, as shown by the tables, emphasize the reason for taking this action at this time. The proposed bill would provide a board of review of three judges of the Municipal Court of the City of Boston for the summary review of sentences, and, as the reason for appeal in most cases is the sentence and not the finding of guilty, we believe that this plan would provide a fairer and more prompt method of dealing with these cases than the present appeal on the whole case, and that a judicial hearing before three judges of that court would be better than the present system of an appeal to the Superior Court or the District Attorney, and would relieve the Superior Court congestion.

PROBATE PRACTICE.

Claims Against Estates.

Under the present law suits against estates of deceased persons must be brought in the Superior Court or in a District Court and are ordinarily brought in the former court. The validity or invalidity of a contested claim cannot be determined in the Probate Court, which has jurisdiction in other respects over the settlement of the estate. As a suit may be brought at any time within a year from the notice of appointment and may not be tried for two or three years after it is brought, the settlement of the estate may be seriously delayed. In our opinion the Probate Court should be

given jurisdiction in such cases. Of course we do not propose to interfere in any way with the right of either party to a jury trial in the Superior Court if insisted upon, but we believe that in many cases the parties would prefer the speedier determination of the issue in the Probate Court. And it is unquestionably in the public interest that so far as possible the trial of cases without jury, with the consequent saving of time, prevention of delay and diminution of expense to the public, should be encouraged.

Accordingly we recommend the enactment of the following bill.

An Act Permitting the Determination and Enforcement of Claims in Contract Against the Estate of a Deceased Person by Proceedings in the Probate Court.

Section 1. Chapter one hundred and ninety-seven of the General Laws is hereby amended by inserting after section four the following new section:

Section 4A. Whenever a claim in contract is made against the estate of a deceased person, the claimant or the executor or administrator may file a petition in the probate court for the determination of the validity and amount of such claim and thereupon the matter may be heard and determined in that court and payment of the amount found to be due may be enforced by said court upon motion of the party to whom the amount is found to be due, in the same manner as payment under a decree in equity may be enforced and execution may also be issued therefor as upon a judgment at law; provided however that a petition by the claimant shall be subject to the same limitations as are prescribed for actions against estates of deceased persons in section one and section nine of this chapter.

If a party elects to file such a petition in the probate court he shall be deemed to have waived a trial by jury. Any other party to the proceeding may, within ten days after the return day of the citation, file in said court a claim of trial by jury together with an answer to the petition and the sum of three dollars for the entry of the petition in the superior court and thereupon the register shall transmit the papers and entry fee to the clerk of the superior court and the cause shall proceed as though originally entered there.

THE TREATMENT OF JURIES.

It is the practice in Massachusetts, as well as in other states, to require juries which do not agree promptly to continue their deliberations for a very long time in the effort to arrive at a verdict. This seems not to be the custom in England, where it is not uncommon for a jury to be discharged after two or three hours' deliberation if it reports that it is unable to agree. We see no objection to requiring much longer consideration of a case than this, but one practice exists in Massachusetts which is highly objectionable. We refer to the practice of requiring a jury to continue its deliberations through the night. The spectacle of haggard jurymen filing into court in the morning after having been engaged in an all night

wrangle, without sleep, is a most unpleasant one. Inquiries which we have directed to officials of several states indicate that Massachusetts is almost alone in subjecting juries to such hardship, the general custom being to provide sleeping quarters either in the court house or in a nearby hotel, and to arrange for a resumption of deliberations in the morning. The dictates of ordinary humanity require that our juries should be treated with similar consideration.

We recommend that in counties where suitable sleeping accommodations are not available, juries be not required to continue their deliberations after eleven o'clock at night; but be discharged not later than that hour if unable to agree unless they request further time.

RECOMMENDATIONS IN PREVIOUS REPORTS.

We incorporate, by reference, the recommendations in previous reports except those already adopted.

Previous Recommendations Adopted Since Our Fourth Report.

Eleven of the previous recommendations of the Judicial Council were in substance adopted by the legislature in 1929 since our fourth annual report, as follows:

1. St. 1929, c. 126, giving the Supreme Judicial Court and the Superior Court jurisdiction in equity matters relative to the observance of the purposes of gifts and conveyances made to counties, municipalities and other subdivisions of the Commonwealth. (See Fourth Report, Judicial Council, pages 63-66.)

2. St. 1929, c. 133, authorizing the stay of execution in capital cases by the Supreme Judicial Court or a justice thereof pending the final determination of judicial questions. (See Third Report, Judicial Council, page 32, and Fourth Report, page 46.)

3. St. 1929, c. 172, an act to expedite the Collection of Debts. Chapter two hundred and thirty-one of the General Laws is hereby amended by inserting after section fifty-nine A, inserted by section one of chapter five hundred and nine of the acts of nineteen hundred and twenty-two, under the title "Expediting the Collection of Debts", the following new section:—

Section 59B. In any action of contract where the plaintiff seeks to recover a debt of liquidated demand, he may, at any time after the defendant has appeared or, in a removed case, after its entry, on affidavit by himself or by any other person who can swear to the facts of his own knowledge, verifying the cause of action and stating that in his belief there is no defense thereto, move for the immediate entry of judgment for the amount of the debt or demand, together with interest if any is claimed. The motion may be set down for hearing upon four days' notice and

after hearing the court may, unless the defendant by affidavit, by his own evidence or otherwise, shall disclose such facts as the court finds entitle him to defend, enter an order for judgment for the amount of the debt or demand, with interest if any is due and costs. Judgment as aforesaid shall be entered at the expiration of seven days from the order unless the defendant in the meanwhile files a demand for trial; and if such demand is filed as aforesaid the case shall be advanced for speedy trial. If the defendant does not appear at said hearing or file at or before the time set for hearing an affidavit setting forth specifically and clearly the substantive facts upon which he relies as a defense, the court may enter judgment by default.

(See First Report, Judicial Council, pages 32 and 141; Second Report, pages 43 and 113; Fourth Report, page 49.) As a question has arisen whether this act applies to the district courts we have recommended a slight amendment to make this clear.

4. St. 1929, c. 173, an act providing for prompt informal trials in the Superior Court.

Section 1. Chapter two hundred and thirty-one of the General Laws is hereby amended by inserting after section sixty, under the title "Providing for Prompt Informal Trials in the Superior Court," the following new section: —*Section 60A.* In any action at law or suit in equity after issue joined in the superior court, any party to the proceeding may, by a writing filed in the clerk's office, offer to waive any or all of the following:

- (1) A trial by jury if it has been claimed.
- (2) The right to file interrogatories except as allowed by the court.
- (3) The rules of evidence to the end that any evidence may be received which the court considers probative.
- (4) The right to appeal from, or take exception to, any ruling, order, judgment or decree except on a question of substantive law.

A written notice of such offer with a copy thereof shall be served by registered mail, with return receipt requested, upon the other party or his attorney not less than ten days before the trial of the action or suit. If such offer is not rejected by a writing filed in the clerk's office within ten days after such notice or within such further time as the court may on motion allow, such offer shall be deemed to have been accepted and the matters in controversy shall be tried and determined in accordance therewith; and such action or suit shall be advanced for speedy trial.

5. St. 1929, c. 185, to allow defendants in the Superior Court in criminal cases other than capital cases, to elect to be tried by the court instead of by a jury. (See First Report, Judicial Council, pages 21, 97, 108, 112; Third Report, page 107; Fourth Report, page 47.)

6. St. 1929, c. 186, extending the rulemaking power of the Supreme Judicial Court and the Superior Court to include the making of rules of procedure for securing the interpretation of written instruments without other relief. (See Third Report of Judicial Council, pages 65-66; Fourth Report, page 49; *American Bar Association Journal* for December, 1928, pages 633-640. Under

this act a rule was adopted by the Superior Court which went into effect on November 1st, 1929.*

7. St. 1929, c. 258, an act relative to cases of desertion or non-support.

G. L., c. 273, §1, as amended by St. 1925, c. 126, was further amended by adding at the end thereof the following new sentence:— In a prosecution hereunder for desertion or non-support against a husband, a decree of judgment of a probate court in a proceeding in which the husband appeared or was personally served with process, establishing the right of the wife to live apart, or of her freedom to convey and deal with her property, or the right to the custody of the children, shall be admissible and shall be *prima facie* evidence of such rights. (See Fourth Report of Judicial Council, p. 50.)

8. St. 1929, c. 265, relative to the preparation and transmission to the full court of the Supreme Judicial Court of necessary papers in appellate proceedings and relative to the entry of such proceedings in said court. (See Fourth Report, Judicial Council, pages 49 and 60.)

9. St. 1929, c. 291, extending the act allowing district court judges to try misdemeanor cases with juries in the Superior Court, until December 31, 1932.

10. St. 1929, c. 316, removing the jurisdictional limits of the district courts for civil business and providing the defendant with a right of removal to the Superior Court for hearing with or without jury in cases involving an amount in excess of the jurisdictional limits of said courts prior to September 1st, 1929. The act does not alter in any way the right of removal of cases which were within the jurisdiction of the district courts prior to September 1st, 1929. (See Second Report of the Judicature Commission, pages 40 and 141; First Report of the Judicial Council, pages 47 and 145; and Fourth Report, page 47.)

11. St. 1929, c. 342, extending the Equity Jurisdiction of Probate Courts. (See Third Report of Judicial Council, pages 67-68; Fourth Report, page 51.)

12. The general demand for additional quarters for the courts in Suffolk County which we have emphasized was also provided for by St. 1929, c. 368, but the act has not yet been accepted by the City Council.

* The rule, with an illuminating explanatory note by Hon. Henry T. Lummas of the Superior Court, is printed in *Mass. Law Quarterly* for August, 1929.

Summary of the Work Accomplished by the Various Courts.

The act creating the Judicial Council (St. 1924, c. 244, reprinted at the beginning of this report) provides that the Council shall study "the work accomplished and the results produced by the judicial system and its various parts" and "shall report annually upon the work of the various branches."

There have been entered in the Supreme Judicial Court, Superior Court, Land Court, Probate Court, the Municipal Court for the City of Boston, the Boston Juvenile Court, the other District Courts and in Trial Justices' Courts during their last statistical year as reported 224,101 civil cases and 247,969 criminal cases including inquests and juvenile delinquency cases. The annual periods reported by the different courts are not the same, some reporting for the last calendar year while others from June 30 to June 30, etc. The details are as follows:

	Civil Entries.	Criminal Entries.
SUPREME JUDICIAL COURT.		
Entries not including Appellate cases ¹	2,972	
Full Bench Rescripts	493	
Advisory Opinions	3	
Superior Court	37,032	16,198
Land Court	1,757	
Probate Courts	29,524	
Municipal Court of Boston:		
Entries	46,410	44,680
Appellate Division	161	815
Boston Juvenile Court		
District Courts:		
Entries	105,566	184,560
Appellate Division	183	
Trial Justices		1,716
Total	224,101	247,969
Grand total	4	72,070
¹ Prerogative writs, etc.		
Equity		180
Petitions for admission to the bar		117
Attorney General informations, etc.		1,342
		1,333
		2,972

SUMMARIES OF TOTALS FOR THE YEARS 1927-1928-1929.

	Civil Cases.	Criminal Cases.	Total.
1927	174,878	240,184	415,062
1928	194,382	245,765	440,147
1929	224,101	247,969	472,070

For details as to counties see Appendix B.

There is a duplication of cases to the extent of 17 entered in the Supreme Judicial Court and transferred to the Superior Court for trial and of 2,821 cases removed from the District Courts and Boston Municipal Court, to the Superior Court.

On the other hand, attention is again called to the fact that a "single land registration petition often covers in fact several different cases, while in the Probate Courts in each estate probated, for instance, there may be various petitions, each raising a separate issue and each requiring a hearing." (Third Report, p. 8.)

Besides the foregoing 472,070 cases there were 56,342 tabulatable injuries brought before the Department of Industrial Accidents for adjustment. A large number of petitions, some, at least, of a judicial nature, were brought before county commissioners.

SUPREME JUDICIAL COURT.

Full Bench Cases.

During the year ending August 31, 1929, the Full Bench decided 493 cases including 10 cases in which there were rescripts, but no opinions. There were also 3 advisory opinions of the justices rendered at the request of the Legislature, making a total of 496. This compares with 467 cases in the year ending August 31, 1928, and is the largest number of cases decided in any year except that ending August 31, 1927, when the number rose to 515. (See Table of Cases since 1873, Appendix B, p. 74.)

Single Justice Cases.

The business brought before the single justices is shown by the following table. Of the number of cases there shown, the litigated business ordinarily consists of the equity cases, the applications for prerogative writs and occasional disbarment cases. Of these cases few are actually tried, with witnesses, by the court. Equity hearings are usually on motions, demurrers or masters' reports. The cases tried with witnesses are the prerogative writs and disbarment cases. The remaining and greater number of cases in the table are of a formal nature and require little of the court's time and attention.

SUPREME JUDICIAL COURT ENTRIES FOR ALL COUNTIES,
SEPTEMBER 1, 1928, TO SEPTEMBER 1, 1929.

(Not including Full Bench Cases.)

COUNTY.	Equity.	Trans- ferred to Superior Court.	Referred to Masters.	Prerogative Writs.	Petitions for Admission to Bar.	Other Proceedings.
Worcester . . .	—	—	1	10	—	—
Essex . . .	4	2	1	20	—	2
Plymouth . . .	2	—	1 Audit	4	—	1
Middlesex . . .	9	1	1	24	6	4
Norfolk . . .	1	—	1	10	—	2
Franklin . . .	—	—	—	—	—	—
Hampden . . .	3	—	1 Audit	7	—	—
Berkshire . . .	—	—	—	1 Certiorari 2 Mandamus	1	—
Barnstable . . .	1	—	2	—	—	1
Bristol . . .	3	—	—	16	18	2
Nantucket . . .	—	—	—	—	—	—
Dukes . . .	—	—	—	—	—	—
Hampshire . . .	—	—	—	—	2	3
Suffolk . . .	94	14	15	86	1,315	1,318
Totals . . .	117	17	22	180	1,342	1,333

DETAILED ENTRIES IN THE SUPREME JUDICIAL COURT FOR SUFFOLK COUNTY,
REFERRED TO IN THE TABLE ABOVE.

Law Docket.

Petitions for admission to the bar	1,315
" " writs for Mandamus	36
" " " Habens Corpus	11
" " " Certiorari	23
" " " Error	8
" " " Prohibition	4
Petitions in the nature of Quo Warranto	4
Petitions for Disbarment	1
Application under G. L. c. 233, s. 10	3
Applications " G. L. c. 279, s. 4	2
Applications " G. L. c. 233, s. 59	1
Total entries on Law Docket	1,408

Equity Docket.

Suits in equity	94
Informations by the Attorney General (for failure to file corporation returns, etc.)	1,318
Total entries on Equity Docket	1,412

Total entries on both Dockets 2,820

CLASSIFICATION OF THE 24 PREROGATIVE WRITS IN MIDDLESEX COUNTY.

Mandamus	11
Certiorari	8
Habens Corpus	2
Prohibition	2
Error	1
Total	24

SUPERIOR COURT.

Tabulated returns of the clerks of Superior Court for the year, June 30, 1928, to June 30, 1929, and the classified tables of trials and verdicts and findings in each county, appear in Appendix B.

The situation on the criminal side of the Court is still reassuring and shows the wisdom of employing District Court judges in the Superior Court sessions.

We have already referred in this report to the situation on the civil side of the Superior Court.

Notice should be taken of the fact that divorce cases are being entered very largely in the Probate Courts and that the Superior Court is relieved to that extent.

LAND COURT.

The total number of cases in the Land Court has increased from 487 in the year 1907, to 1,682 in the year 1927, and to 1,757 cases in 1928. In spite of that large increase in the business of that Court the net cost to the Commonwealth was only \$3,950.33 more than in 1907, and was actually \$8,045.82 less than in 1917. This reduction in expense to the Commonwealth was due, in large measure, to the additional income of the court brought about by the increase in fees under the statute which was passed by the Legislature in the year 1923.

The number of cases entered, as has been pointed out in a former report, is not an accurate indication of the amount of work done in that court for the reason that a single petition for registration of title to land often includes many independent issues involving different respondents. Moreover, substantially all the cases, even though uncontested, have to be passed upon by the Court. The fees sent to the State Treasurer were \$10,702.78 more than in the previous year.

Details of Land Court statistics, arranged in ten-year intervals (1907, 1917, 1927, 1928) are as follows:

LAND COURT STATISTICS FOR THE YEARS 1907, 1917, 1927, 1928.

	1907.	1917.	1927.	1928.
Registration cases	357	463	661	676
Post registration cases	—	—	453	459
Tax lien cases	—	7	459	519
Miscellaneous cases	130	64	109	103
Total cases entered	487	534	1,682	1,757
Decree plans made	—	478	640	640
Subdivision plans made	—	212	566	531
Total plans made	—	690	1,206	1,171
Total appropriation	\$40,630 00	\$64,675 00	\$96,700 00	\$98,300 00
Fees sent State Treasurer	14,187 33	21,902 11	58,428 74	69,131 52
Net cost to Commonwealth	24,071 69	38,797 01	36,067 84	28,022 02
Assurance fund	—	73,348 00	200,000 00	204,160 99
Assessed value of registered land	3,643,512 00	5,034,021 00	7,863,711 00	6,785,533 00

The Salary Problem.

Hitherto in our reports we have avoided salary questions, but as recent legislative action in regard to this court has, in our opinion, seriously weakened it for the future, we express our views about it.*

As pointed out elsewhere in this report the work of the Land

* Judge Davis took no part in this recommendation or the discussion leading up to it.

Court is judicial work of a peculiarly difficult character. It is, in our opinion, more difficult judicial work which is more far-reaching in its consequences both public and private than much of the work of the Superior Court. It requires more technical knowledge and skill and as much administrative capacity. It is a court of statewide jurisdiction to which much of the most difficult work previously done by the Superior Court has been transferred. Its work is done by three judges under the pressure of constantly increasing business. Until 1927, these judges were classed except during 1911 and 1912, with the Superior Court in the matter of salaries. This classification was first established in 1906, and reestablished by St. 1913, c. 738. In 1927, in our opinion, a serious mistake was made when the relative position of the court was changed, and the judges demoted, by their omission from the act by which the salaries of the Superior Court were increased. The court is increasing in importance every year because of its increasing relation to larger areas of real estate throughout the Commonwealth. Its present judges are all of an age so that within a relatively few years new appointments will be necessary. For the good of the service and to secure this important court in its proper position and maintain its hitherto excellent morale, for the future, we believe it essential that it should be restored to the position which it occupied with the Superior Court in the matter of salary. After thirty years of constructive effort have gone into the building up of a court which is outstanding in its character and effectiveness among the tribunals of the country dealing with real estate, it is, in our opinion, poor business judgment for the Commonwealth to discourage, for the future, the enthusiastic spirit of service which has characterized its whole force and "made" the court thus far and which is needed for the future to attract competent men and maintain its efficiency. As the court is more self-supporting than any other court and is producing more and more revenue for the Commonwealth, as shown by the growth of the business since 1907, given in the table above, we see no adequate reason why the Commonwealth should weaken its position for the future by what we believe to be mistaken economy.

PROBATE COURTS.

The entries in these courts for 1928 were as follows:

	Probate Entries.	Divorce Entries.
Essex County	3,064	563
Suffolk County	5,056	1,381
Hamshire County	481	32
Middlesex County	5,401	1,023
Dukes County	84	4
Nantucket County	42	5
Worcester County	3,038	472
Norfolk County	1,817	267
Hampden County	1,600	38
Barnstable County	362	28
Berkshire County	784	161
Franklin County	348	32
Bristol County	1,841	360
Plymouth County	1,140	100
	25,058	4,466

As only 365 divorce and nullity cases were entered in the Superior Court during the year ending June 30, 1929, it is apparent that fully 90 per cent of these cases are now being settled in the Probate Courts.

As we pointed out in previous reports the number of entries thus stated in no way represents the amounts of business done by these courts, because in each will, estate and trust there are apt to arise questions of construction, accounting, etc., that involve hearings, decisions and decrees so that they are in effect independent cases although never listed as such. In other words, a will offered for probate, for example, counts merely as one case although many different issues, arising under it, have to be heard and determined.

The Probate Court for the County of Suffolk kept a detailed record of the papers recorded during the year 1927 which we printed in our Fourth Report (Appendix B) in order to show the extent, variety and importance of the work done by these courts. These did not include divorce cases.

We suggest that like records be kept in all the Probate Courts in future so that it may be possible to tabulate the work annually done by all the Probate Courts in the Commonwealth. We have received from the Register of Probate for Middlesex County a table as to the business of that court which appears in Appendix B.

We also suggest that records be kept showing the number of cases *tried* and disposed of by each Probate Court for each year as was done in Suffolk for 1927. (See Fourth Report, Appendix B.)

MUNICIPAL COURT OF THE CITY OF BOSTON.

Including Small Claims and Supplementary Process cases there were 46,701 civil cases here entered in this court during the calendar year 1928, and 44,680 criminal cases.

The table on the page opposite shows the details of civil actions in this court from 1913 to the year 1928, inclusive.

MUNICIPAL COURT OF THE CITY OF BOSTON — CIVIL ACTIONS.

YEAR.	Entered.	Removed.	Per Cent.	All Defaults.	Per Cent of Entries.	Tried.	Per Cent of Entries.	Total Plaintiffs' Judgments.	Average Plaintiffs' Judgments Contract only.	Heard, Appellate Division.	Per Cent of Trials.	To Supreme Judicial Court.
1913 .	14,005	441	3.1	7,067	50	1,735	12	\$1,008,147	\$115.10	74	4.2	11
1914 .	15,173	501	3.3	7,681	50	1,676	11	976,320	103.45	88	5.2	18
1915 .	16,077	401	2.4	7,848	49	1,587	10	-	-	-	-	9
1916 .	16,095	401	2.4	7,707	47	1,760	11	1,117,059	104.69	93	5.8	19
1917 .	15,552	424	2.7	7,189	46	1,745	11	1,203,926	126.58	88	5.0	10
1918 .	12,786	380	2.9	6,381	49	1,290	10	1,043,886	120.32	84	6.5	6
1919 .	12,304	408	3.3	5,511	45	1,554	12	925,275	157.46	76	4.8	24
1920 .	13,702	477	3.4	6,078	44	1,745	12	1,065,379	132.97	94	5.4	18
1921 .	18,640	677	3.6	7,302	39	2,203	11	1,563,293	146.82	93	4.2	15
1922 .	19,948	476	2.386	10,106	50	2,201	11	1,877,970	154.10	106	4.8	10
1923 .	21,805	746	3.4	10,589	48	2,397	11	2,019,262	158.49	77	3.2	20
1924 .	23,820	907	3.8	11,239	47	2,636	11	2,256,391	149.86	79	3.0	14
1925 .	26,482	1,263	4.8	13,149	49	2,661	10	2,529,877	156.28	103	3.8	18
1926 .	30,830	1,505	4½	15,184	49	2,928	9	2,980,009	163.74	92	3.1	22
1927 .	36,025	1,303	3.6	18,129	50	3,342	9.2	3,579,613.41	152.05	104	3.1	21
1928 .	37,441	1,039	-	19,181*	-	3,740	-	3,146,170.07	148.13	141	-	14

The jurisdictional limits in civil cases from 1866 to 1877 were \$300; from 1877 to 1894, \$1,000; from 1894 to 1922, \$2,000; from 1922 to September 1, 1929, \$5,000; since September 1, 1929, the jurisdiction has been unlimited in amount.

* There were also 462 nonquits of cases marked for trial.

The number of cases brought in this court in which the *ad damnum* (amount claimed in the writ) exceeds \$2,000 and in which the defendants have submitted to the jurisdiction during the years 1926-8, inclusive, and showing the percentage removed are as follows:

Cases of Over \$2000.

	Number of Cases.	Removed.	Per Cent.
1926	1,209	204	16
1927	1,749	187	10.6
1928	1,956	190	9.8

This table shows a constantly increasing use of the enlarged jurisdiction. The status of Supplementary Process entries in comparison with preceding Poor Debtor and Equitable Process cases is shown in the following table.

POOR DEBTOR, EQUITABLE (OR DUBUQUE) PROCESS AND (SINCE MARCH 1, 1928),
SUPPLEMENTARY PROCESS ENTRIES.

YEAR.	Poor Debtor Entries.	Equitable Process.	Supplementary Process.
1925	3,720	64	none
1926	4,353	73	none
1927	4,615	92	none
1928	724*	10*	7,273**
1929	none	none	6,225***

* Period from January 1 to March 1.

** Period from March 1 to December 31.

*** Period from January 1 to October 7.

The criminal business of this court is shown in the following tables, the motor vehicles cases being also tabulated.

Criminal Statistics, Municipal Court of the City of Boston, For the Year ending September 30, 1929.

Pending.	Begun.	Discharged Not-pressed Dismissed Placed on File before Trial.	PLEAS.		FINDINGS.		Bound Over.	Sentences Appealed to Superior Court.
			Guilty.	Not Guilty.	Guilty.	Not Guilty.		
216	44,680	366	22,746	6,254	26,897	1,872	577	1,687

Motor Vehicle Offences, Municipal Court of Boston, For Year ending September 30, 1929.

Summons Issued.					Appealed.	
Violation automobile law	.	.	.	.	2,730	211
Violation traffic rules	.	.	.	.	12,853	112

The violations of the automobile law decreased by 1,180 from last year, but the appeals increased by 90. The violations of traffic rules increased by 911 cases over last year, and the appeals increased by 23.

Inquests.

There were 142 inquests held in this court during the year.

BOSTON JUVENILE COURT.

As stated in the report of the Judicature Commission, "The Boston Juvenile Court, created in 1906, is a separate court with jurisdiction in juvenile cases in the central district of Boston. It has done pioneer work, which has been very valuable."

During the year ending September 30, 1929, there were 791 new complaints entered and 24 "neglect" cases, as compared with 707 new complaints and 27 "neglect" cases in the year ending September 30, 1928, and 663 new complaints and 27 "neglect" cases in the year ending September 30, 1927. In connection with these figures, it should be remembered that in many of the cases the boy is placed on probation or otherwise kept under supervision by the court through the probation officer and that in addition to the "cases" of new complaints entered on the docket and reported in the annual returns to the Department of Correction, the advice and assistance of the judge is constantly sought by parents in informal conferences in cases which do not reach the stage of a formal complaint by any one.

While the work of this court has attracted nationwide attention, it has been obliged to function since 1906 in a small, badly-ventilated room in the Suffolk Court House. It ought to be provided with simple, decently ventilated quarters of adequate size as soon as possible.

DISTRICT COURTS.

There are 72 of these courts (with 72 standing justices and 140 special justices) and their statistical report, facing this page, embraces the years ending October 1, 1928 and 1929.

There were 81,424 civil cases entered, including supplementary process, small claims and insane cases in the year ending in 1927; 90,940 in 1928, and 105,566 in 1929.

The following table shows the facts more in detail and includes the four prior years for the purpose of comparison.

	1928 to 1929.	1927 to 1928.	1926 to 1927.	1925 to 1926.	1924 to 1925.	1923 to 1924.
Court writs entered . . .	62,203	54,591	47,413	43,294	39,561	36,405
Poor Debtor and Dubuque or supplementary process . .	14,557	12,235	11,739	8,650	6,908	5,912
Small Claims	25,422	19,978	19,326	18,179	19,618	17,820
Insane	3,384	3,236	2,946	3,790	2,883	2,928
Total	105,566	90,940	81,424	73,922	68,970	63,065

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STATISTICS OF THE DISTRICT COURTS OF MASSACHUSETTS FROM OCTOBER 1, 1927 TO OCTOBER 1, 1928
AS REPORTED BY THE CLERKS OF SAID COURTS.

Compiled by the Administrative Committee of District Courts

DISTRICT COURTS	Civil Writs Entered	Appeals, Civil	Removals to S. C.	Reported to App. Div.	Appealed to S. J. C.	Poor Debt. & Dubug. & Supp. Process	Small Claims	Insane	Crim. cases begun	Crim. Appeals	Drunkenness	Auto Cases		Int. Liquor Cases	Inquests	Juvenile cases under 17 yrs.
												Operating under inf. of int. liquor.	Total Automobile Cases			
Worcester, Central.....	5238	1	107	8	1	981	1131	354	7092	759	4071	79	1032	251	62	368
Springfield.....	3653	...	76	7	1	525	1384	162	8668	135	2131	256	1894	361	37	328
Middlesex, First Eastern.....	4872	3	115	24	...	1262	1673	118	5168	172	1901	225	1090	249	39	218
Roxbury.....	683	2	8	...	...	150	753	...	15617	1105	4451	*	4857	827	22	513
Bristol, Third.....	1195	...	60	12	...	173	402	114	3984	1146	1318	68	344	330	23	238
Middlesex, Third Eastern.....	4199	...	110	13	1	1370	854	150	8893	495	3484	*	2067	379	51	504
Dorchester.....	493	3	8	3	1	509	749	...	6602	292	1174	107	3357	209	10	333
Lowell.....	1522	...	39	11	2	212	410	124	5347	108	1136	*	626	468	34	234
Bristol, Second.....	1945	...	169	6	4	188	375	101	3456	330	1517	64	313	313	25	252
Essex, Southern.....	2755	2	162	2	...	404	705	89	4951	244	1837	97	1357	355	27	291
Lawrence.....	1337	...	25	4	...	186	143	62	3369	209	1770	96	543	198	4	241
Norfolk, East.....	2770	...	77	2	...	858	976	71	5713	166	1531	251	1845	94	32	274
Somerville.....	2123	1	70	4	...	575	527	74	2868	199	1420	78	330	364	18	236
West Roxbury.....	242	...	7	1	...	58	352	...	5680	347	1209	77	2896	134	6	147
Essex, First.....	1164	1	126	3	...	205	270	286	2760	281	907	111	680	136	20	134
Brookton.....	1120	...	44	4	...	219	378	81	2996	124	1407	87	335	134	30	212
East Boston.....	349	1	9	2	...	52	311	...	6774	373	3400	51	1863	474	19	595
Chelsea.....	1148	...	73	3	...	149	555	21	5433	400	2032	89	1363	139	20	290
South Boston.....	201	...	7	...	...	8	137	...	9025	270	5593	57	1013	680	16	299
Essex, Northern Central.....	702	...	43	...	...	62	204	24	1274	104	636	58	263	84	6	41
Holyoke.....	528	...	28	1	...	21	286	55	1798	59	693	59	195	161	11	167
Hampshire.....	463	...	12	2	...	25	458	115	1465	131	522	74	322	130	13	122
Middlesex, Second Eastern.....	1929	...	68	10	...	445	359	110	2483	151	954	123	676	118	28	213
Berkshire, Central.....	529	...	17	...	...	30	603	58	1745	13	544	43	482	153	16	114
Bristol, First.....	564	...	27	...	...	27	135	104	1422	74	486	55	433	62	17	74
Middlesex, Fourth Eastern.....	1110	...	37	2	...	281	378	10	2467	58	689	*	1261	79	3	76
Newton.....	1241	...	37	5	...	353	497	44	1589	97	504	73	604	14	22	96
Fitchburg.....	437	1	60	2	...	36	154	20	1215	29	645	26	264	50	7	66
Norfolk, Northern.....	884	...	39	1	...	89	1574	74	3373	74	739	74	538	64	11	50
Brighton.....	306	1	8	...	...	27	391	1	1574	121	739	74	1251	122	11	147

	54591	21	1971	153	13	12235	19978	3236	168636	9590	60405	3639	43732	9544	833	8522
Middlesex, Fourth Eastern.	504	27	...	...	...	...	...	135	104	1422	74	486	55	433	62	17
Newton.	1110	37	2	...	...	...	281	378	20	2467	58	689	*	1261	79	3
Fitchburg.	1241	37	5	...	...	...	353	497	44	1589	97	504	73	604	14	22
Norfolk, Northern.	884	39	1	...	...	...	36	154	20	1215	29	645	26	264	50	7
Brighton.	306	1	...	...	...	...	290	218	89	1574	74	544	71	538	64	11
Franklin, Greenfield.	301	18	1	...	...	...	87	391	1	3373	121	739	74	1252	122	11
Worcester, First Southern.	179	8	...	...	...	...	10	87	45	732	17	134	73	143	39	12
Brookline.	1333	31	6	...	...	...	13	26	14	991	23	339	46	175	107	4
Plymouth, Fourth.	278	17	2	1	...	...	41	316	24	1889	49	308	*	928	21	2
Plymouth, Second.	485	17	1	...	...	...	137	297	41	993	34	245	54	234	81	3
Chicopee.	258	5	1	...	...	...	28	56	20	1754	133	493	98	698	118	3
Worcester, First Northern.	220	4	2	...	...	...	75	62	54	1055	15	391	48	98	66	5
Charlestown.	115	3	...	...	...	...	1056	157	...	5271	86	320	30	170	53	4
Middlesex, First Southern.	675	27	1	...	...	...	138	273	51	1217	319	2676	30	1402	206	3
Essex, Eastern.	294	10	...	...	...	...	29	49	13	966	39	258	72	341	159	10
Norfolk, Western.	331	14	...	...	...	...	55	101	74	1467	61	479	23	133	25	5
Middlesex, Central.	358	9	1	...	...	...	66	164	20	1044	68	320	79	316	119	5
Worcester, Second Southern.	154	2	...	...	...	...	50	53	8	598	18	104	27	157	46	7
Hampden, Western.	133	1	...	...	...	...	15	88	18	874	19	285	26	208	55	7
Berkshire, Northern.	108	...	...	...	...	...	6	39	14	692	15	367	12	54	68	9
Marlborough.	295	18	...	...	...	...	23	166	23	460	17	166	30	148	45	6
Worcester, Second Eastern.	165	3	...	...	...	...	18	53	22	588	33	89	16	153	95	6
Newburyport.	234	21	2	...	...	...	57	142	13	638	42	193	32	139	32	7
Plymouth, Third.	284	9	...	...	...	...	34	207	14	900	40	146	37	232	73	6
Peabody.	276	16	...	...	...	...	52	115	9	1171	26	532	25	200	141	4
Leominster.	252	4	1	...	...	...	25	55	20	683	24	263	19	146	32	3
Worcester, Western.	90	1	...	...	...	...	9	83	10	743	36	198	*	27	56	6
Worcester, Third Southern.	168	9	...	...	...	...	14	38	16	415	4	100	12	86	18	5
Hampden, Eastern.	111	2	...	...	...	...	...	6	28	796	16	125	43	442	18	14
Plymouth, Fourth.	131	3	...	...	...	...	23	85	43	966	19	169	36	342	107	7
Norfolk, Southern.	235	9	...	...	...	...	64	53	14	621	48	121	27	254	43	5
Middlesex, First Northern.	95	5	1	...	...	...	14	80	6	617	29	79	24	145	66	3
Worcester, First Eastern.	49	1	...	...	...	...	13	24	15	275	20	72	15	118	9	18
Berkshire, Fourth.	70	1	...	...	...	...	13	81	...	438	3	120	22	144	13	31
Essex, Second.	103	9	2	...	...	...	18	37	9	623	55	76	36	278	50	31
Barnstable, First.	315	2	...	...	...	...	34	160	15	950	52	156	45	229	104	9
Barnstable, Second.	180	2	...	...	...	...	48	124	12	379	10	53	14	95	39	3
Berkshire, Southern.	117	6	...	...	...	...	...	165	9	355	13	81	10	139	14	2
Natick.	205	3	...	...	...	...	34	60	11	340	7	119	17	89	36	14
Lee.	26	1	...	...	...	...	103	7	7	379	4	59	20	201	25	3
Hampshire, Eastern.	37	1	...	...	...	...	...	48	7	183	2	47	4	34	21	2
Franklin, Eastern.	36	...	...	...	...	...	...	38	8	117	7	15	7	52	18	4
Essex, Third.	47	1	...	...	...	...	12	14	3	280	11	91	12	42	30	9
Winchendon.	34	2	...	...	...	...	3	13	3	180	1	69	7	29	11	1
Dukes County.	42	...	...	...	...	...	4	6	110	10	23	147	4	36	...	9
Williamstown.	13	...	...	...	...	...	...	65	6	45	3	12	3	11	11	4
Nantucket.	27	1	...	...	...	...	...	75	3	141	...	33	*	41	11	11

*Not reported separately

Grand Total of all Cases, 397,159

Bristol, First.....	672	34	1	2	45	158	140	1953	85	444	67-	1030	63	24	82
Middlesex, Fourth Eastern.....	1119	33	7	.....	363	473	4	2537	38	643	145-	1195	1195	8	92
Newton.....	1693	50	11	.....	514	684	38	2838	125	462	69-	1016	42	34	216
Fitchburg.....	453	11	5	.....	58	190	28	1237	36	721	35-	173	23	13	101
Norfolk, Northern.....	923	17	1	.....	248	236	115	1569	97	519	41-	511	88	19	71
Brighton.....	339	13	.....	.....	190	475	1	1	147	736	84-	1176	85	4	84
Franklin, Greenfield.....	323	10	.....	.....	17	116	26	846	18	190	47-	210	110	10	34
Worcester, First Southern.....	334	10	.....	.....	507	386	31	1438	47	359	61-	294	112	7	23
Brookline.....	1343	47	8	.....	537	386	31	1927	33	350	30-	1190	14	8	69
Bristol, Fourth.....	178	38	2	2	206	303	45	834	33	220	68-	306	36	3	60
Plymouth, Second.....	527	9	1	.....	153	357	20	2063	60	594	121-	944	56	4	42
Chicopee.....	248	9	.....	.....	52	127	35	961	9	365	47-	154	44	5	84
Worcester, First Northern.....	231	2	.....	.....	15	75	63	1358	74	338	47-	253	117	11	48
Charlestown.....	108	2	.....	.....	36	146	.....	5209	272	2683	28-	1162	262	8	252
Middlesex, First Southern.....	482	34	2	.....	196	243	26	1281	24	259	60-	364	94	8	63
Essex, Eastern.....	399	9	.....	.....	56	99	15	1168	53	556	44-	148	57	6	47
Norfolk, Western.....	402	13	.....	.....	77	167	66	1350	55	202	69-	694	89	17	68
Middlesex, Central.....	426	7	.....	.....	174	283	15	1077	61	222	59-	398	65	12	38
Worcester, Second Southern.....	150	1	2	.....	38	111	5	526	17	116	19-	160	41	9	16
Hampden, Western.....	20	2	.....	.....	46	170	21	1190	13	451	55-	277	63	21	50
Berkshire, Northern.....	232	7	.....	.....	36	97	23	721	1	348	20-	72	27	1	23
Marlborough.....	346	4	2	.....	39	200	20	790	14	179	28-	137	19	7	2
Worcester, Second Eastern.....	156	10	.....	.....	26	67	25	503	25	101	35-	188	94	11	25
Newburyport.....	361	13	.....	.....	65	154	6	573	43	187	24-	128	30	9	46
Plymouth, Third.....	193	1	.....	.....	46	283	13	849	53	134	43-	253	47	6	40
Peabody.....	463	10	.....	.....	68	146	11	1047	23	380	31-	154	145	2	68
Leominster.....	239	5	3	.....	43	44	19	633	19	258	28-	144	17	6	48
Worcester, Western.....	76	2	.....	.....	21	83	23	969	31	173	30-	532	32	8	31
Worcester, Third Southern.....	197	9	.....	.....	48	56	17	335	8	68	11-	65	10	1	14
Hampden, Eastern.....	157	3	.....	.....	19	12	20	1024	33	158	61-	586	57	8	48
Plymouth, Fourth.....	172	8	.....	.....	30	175	49	1268	38	250	50-	549	87	5	44
Norfolk, Southern.....	296	13	.....	.....	74	88	14	506	35	112	26-	153	14	6	23
Middlesex, First Northern.....	134	3	3	.....	20	84	14	545	14	49	18-	138	46	5	29
Worcester, First Eastern.....	100	2	.....	.....	25	82	17	485	13	103	34-	250	21	3	24
Berkshire, Fourth.....	60	1	.....	.....	12	78	.....	555	2	154	28-	172	49	.....	27
Essex, Second.....	203	9	1	.....	18	100	14	803	49	146	49-	335	81	3	57
Barnstable, First.....	350	5	.....	.....	59	159	14	848	26	182	47-	260	34	4	48
Barnstable, Second.....	181	3	.....	.....	42	180	9	450	21	39	5-	98	46	4	48
Berkshire, Southern.....	134	5	.....	.....	4	189	8	390	6	69	18-	150	25	9	27
Natick.....	210	11	1	.....	67	107	15	391	9	130	18-	112	18	2	32
Lee.....	37	3	.....	.....	8	153	10	556	.....	77	18-	427	52	4	11
Hampshire, Eastern.....	32	3	1	.....	3	50	7	227	4	42	7-	56	13	2	27
Franklin, Eastern.....	47	.....	.....	.....	5	58	.....	162	10	17	5-	47	23	3	13
Essex, Third.....	70	2	.....	.....	10	14	.....	262	16	74	14-	50	45	2	28
Winchendon.....	37	.....	.....	.....	12	25	.....	189	17	76	6-	37	7	.....	5
Dukes County.....	66	3	.....	.....	16	246	3	196	17	24	8-	51	3	4	12
Williamstown.....	13	.....	.....	.....	2	63	5	91	1	10	8-	23	1	9	9
Nantucket.....	26	.....	.....	.....	1	64	2	200	4	38	8-	37	37	.....	1
Grand Total of all Cases, 423,263	62203	26	1782	183	26	14557	25422	3384	174370	59838	4570	48021	10094	980	9210

*Not reported separately

Grand Total of all Cases, 423,263

Although the number of entries (excluding Supplementary Process and Small Claims and Insane Cases which are seldom or never removed) increased in 1929 by 14,790 over those of the year ending in 1927, the number of cases removed to the Superior Court increased only 7 cases from 1,775 to 1,782 and decreased 189 cases from the number in 1928.

Appellate Divisions of the District Courts and the Municipal Court of the City of Boston.

It is impossible to give the exact percentages of cases *tried* in these courts that are carried to the Appellate Divisions and from thence to the Supreme Judicial Court because the District Courts, other than the Municipal Court of the City of Boston, do not report the number of trials. But probably they would bear about the same ratio to entries as do those of the Municipal Court of the City of Boston.

	Entries.	Cases Tried.	Reported to Appellate Division.	Appealed to Supreme Judicial Court.
Municipal Court Boston, 1928	37,441	3,740	159	14
Other District Courts, 1928	54,591	—	153	13
Other District Courts, 1929	62,203	—	183	26

This table shows the effective work of these courts. Of the large number entered and tried only a small percentage are reported to the Appellate Divisions and a very small percentage go to the Supreme Judicial Court.

On the criminal side of the District Courts the comparative statistics are as follows:

	1928 to 1929.	1927 to 1928.	1926 to 1927.	1925 to 1926.	1924 to 1925.	1923 to 1924.
Criminal cases begun	174,370	168,636	165,015	161,809	168,681	163,530
Inquests	980	833	888	780	800	827
Juvenile cases under 17 years	9,210	8,522	7,835	8,084	8,155	7,938
Total	184,560	177,991	173,738	170,673	177,636	172,295

It will be noted that the criminal cases increased 10,822 over the year ending in 1927.

There were presented to the ten Trial Justices now in this Commonwealth during the year September 30, 1927, to September 30, 1928, 1,716 criminal cases as shown below. Trial justices have no civil jurisdiction. There were 26 cases pending September 30, 1927; 37 cases pending September 30, 1928, and 27 cases pending September 30, 1929. 28 cases were appealed, 50 cases sent to the grand jury, and the remainder finally disposed of.

**Criminal Cases before Trial Justices for the Year ending
September 30, 1929.**

	Cases Pending Sept. 30, 1928.	No. Cases Pegun During Year.	No. Cases Appealed.	No. Cases Bound Over to Grand Jury.	No. Cases Pending Sept. 30, 1929.
Colver J. Stone, Andover	—	134	2	28	—
Luke B. Colbert ¹ , Marblehead	—	—	—	—	—
Walter H. Southwick, Nahant	—	226	—	1	—
William E. Ludden, Saugus	19	380	14	7	4
Cornelius J. Mahoney, North Andover . .	15	46	3	—	10
George B. Haas, Ludlow	—	418	2	3	—
Daniel J. Riley, Hopkinton	—	8	—	—	—
Fred E. Morris, Hudson	3	211	1	6	11
John L. Smith, Barre	—	139	2	2	2
Dennis J. Healey, Hardwick	—	88	4	—	—

¹ Successor to Moses S. Case who resigned in June of 1928. The figures given are for the period from June to September only, as the records of Mr. Case seem to have been lost.

DEPARTMENT OF INDUSTRIAL ACCIDENTS.

Of the 158,990 accident reports filed with the department during the year 1928, 60,330 were for injuries causing the loss of at least one day or one shift called in the report of the department "tabulatable injuries." Of this latter number 3,988 cases were not insured, and how many of them ripened into law suits we do not know. Neither can we know how many of the remaining 56,342 cases would in fact have gone before our courts if they had not been adjusted before the Industrial Accident Board. But when we consider that 340 of these 60,330 cases resulted in death, 12 in permanent total disability, 1,197 in permanent partial disability and that more than 62.4 per cent of the remainder represent a temporary disability of more than a week, it is evident that the courts have been relieved from some thousands of actions that would otherwise have been brought to recover damages. It is true that the Board is not

a court, but an administrative commission, and that the chief end sought in its creation was to relieve the community from a part, at least, of the cost of the human waste attendant upon industrial operations. Nevertheless, it was in part created to relieve our courts of the congestion of cases growing out of the relation of master and servant, and as, in addition to its administrative duties, the board and its members hold hundreds of hearings each year to determine questions of fact and law arising under the Workmen's Compensation Act, its work is properly to be considered when surveying the administration of justice.

In lieu of damages and settlements that would have been paid to injured employees, if the Workmen's Compensation Act did not exist, there was paid by the various authorized insurance companies operating under this Act the sum of \$8,976,147.18 during the year 1928, at a gross cost of \$228,694.59. As there were receipts of \$19,937.30 to be credited, the net cost to the Commonwealth was \$208,757.29.

This foregoing report shows almost 9,000 less accidents reported than were reported last year. There were almost 4,000 fewer "tabulatable injuries" than there were last year. There were 1,233 fewer uninsured cases than last year. There were 23 more deaths, 5 more permanent total disability, 35 more permanent partial disability cases and a slightly less percentage of disability of more than a week. The amounts paid by insurance companies increased \$957,512.80. The gross cost increased \$34,144.59. The receipts increased \$2,606.51 and the net cost to the Commonwealth increased \$31,538.08. And yet in spite of this increased cost, the net average cost to the Commonwealth of thus disposing of 56,342 cases was between \$3.50 and \$3.75 per case, which is less than the estimated cost in the Boston Municipal Court and of course very much less than the cost in the Superior Court.

SITTINGS OF THE FULL BENCH OF THE SUPREME JUDICIAL COURT.

In the Third Report of the Council, in November, 1927, at page 55, we state that "we believe it would be very advantageous if the Court [the full bench] should sit at Boston the first two weeks more or less of each month from October to May, inclusive."

This suggestion was adopted by the court during the year 1928-1929 and monthly sittings were held. As to the results of the change the following statement by the court appears on the current Full Bench Docket in Suffolk County:

"The success of the new system was somewhat impaired by marking cases over to future sittings upon request of counsel, which resulted in congestion of the docket at the later sittings and of the work of the justices toward the end of the year. The system of monthly sittings will be continued during the court year of 1929-30 and it is hoped that the members of the bar will co-operate to make it a success by arguing or submitting cases when reached in their order and in not marking cases over except in instances of impelling necessity.

"Some time ago representatives of the bar suggested that the calling of the list on the first day of each sitting was not of sufficient advantage to justify the loss of time thereby occasioned. This suggestion was taken under consideration. It was found that during the past year there was no response by either side in more than 50% of the cases, and in not more than 25% was there response by both sides. This custom now appears to be inexpedient. It will be discontinued.

"Applications for continuances to future sittings will be heard at the opening of the court on the first day of each sitting. Agreements to mark cases to be heard not before a certain day of the days when the court will be actually in session during the then current sitting may be filed with the clerk not less than one full day before such cases would have been reached on the short list, and need not be called to the attention of the court for approval.

"Advance notice to the clerk of the probable length of arguments will aid in the preparation of the daily short lists."

We call this statement of the court to the special attention of the bar as it is essential that the bar should cooperate if any improvement is to be made in the administration of justice, either in this or in any other direction.

The Administrative Committee of the District Courts created by St. 1922, c. 532, §10, from time to time sends out circular letters containing information and suggestions for the justices and others connected with those courts. We have reprinted these in our previous reports as they not only show what that Committee is doing, but they picture for us many of the practical problems of

those courts. The two circulars of January 1, and July 1, 1929, are reprinted in Appendix A.

While Judge Loring has joined in the recommendations in previous reports, which he helped to prepare and which are again recommended, he has not been able to take part in the discussions of the present year.

ADDISON L. GREEN, *Chairman*.
FRANKLIN G. FESSENDEN.
CHARLES T. DAVIS.
HARRY R. DOW.
CHARLES L. HIBBARD.
ROBERT G. DODGE.
FREDERICK W. MANSFIELD.
FRANK W. GRINNELL.

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APPENDIX A.

**CIRCULAR LETTERS OF THE ADMINISTRATIVE
COMMITTEE OF DISTRICT COURTS.**

*To the Justices, Special Justices, Clerks and Probation Officers of the
District Courts: —*

JANUARY 15, 1929.

On October 1st, 1928, Judges Frank A. Milliken and James W. McDonald, who had been members of the Administrative Committee from October 1, 1922, voluntarily retired from office. The new committee deeming it wise to acquaint itself with the entire District Court system of the Commonwealth has begun a visitation of each of said courts. All of the members of the new committee have been greatly pleased with the cordiality and responsiveness of the receptions which they have received upon the visits thus far paid. It will require some time for the new committee to fully explore the field and to determine the areas within which it may function to the best mutual advantage. It seems desirable to maintain contact with the courts already visited and to establish such with the remainder by the issuance of a circular letter similar in form to those heretofore sent out by the old committee.

STATISTICS.

Your committee has compiled the annual statistics of the work of the District Courts and in printed form they are transmitted with this letter.* As it seems altogether probable this work will be continued from year to year, it is hoped that the clerks of the various courts will so arrange that the information may be furnished to the committee with more promptness than heretofore. The members realize that compliance with the request for this information imposes something of a burden but nevertheless its value when compiled is evidenced by the demand for and use of these statistics by many individuals and agencies. Such compilations are now recognized as an integral part of the science of the administration of law.

VACANCIES FILLED.

It is a source of congratulation that a substantial number of vacancies in our courts which have existed for months have at last been filled. Settled policies and effective control are now made available in areas which have needed such.

* These statistics for 1928 are reprinted in table facing p. 46 of this report.

COURT ACCOMMODATIONS.

Your committee as indicated has already visited many of the courts and is glad to note a growing consciousness on the part of the County officials of the importance of the District Courts and the necessity of providing them with adequate rooms and accommodations. It is advised that there has been a distinct change for the better in the past five years. Many of the courts have been provided with entirely new quarters. Your committee is at all times ready to assist any court in bringing this matter to the attention of the County Commissioners and has done so in several instances in the past with gratifying results. It should be borne in mind that size is not the only element in determining whether accommodations are satisfactory or not. Dingy, ill-kept rooms and entrances do not make for attractiveness or impressiveness. It cannot exaggerate the necessity of impressing the vast body of people who come into the District Courts each year with the sense of their importance and power. Mere principles of government mean little to the average person coming before the Court.

In line with our effort to improve these conditions is the recommendation now almost universally adopted that the judges wear gowns and there be formality in the opening and closing of the courts. We also urge that for the purposes of effective trial of causes, especially automobile cases, each court equip itself with models or toy automobiles and a blackboard.

NEWSPAPER REPORTS OF CASES.

The attention of your Committee is constantly being called to newspaper accounts of the trial and disposition of criminal cases indicating error in the characterization of the offence or the disposition of the case. For instance a defendant charged with unlawful appropriation of a motor vehicle will be reported as being tried and convicted of larceny of an automobile, a sentence of a juvenile to Lyman School with a suspension of the sentence for two years will be reported as a sentence to the Lyman School for two years. Investigation by your committee of these cases almost always reveals the fact that there is error in the reporting. It is not to be expected that the average newspaper reporter will understand the technicalities of the law or the sentences including of course suspension of sentences and probation. Your committee feels it is no part of the work of the judges to educate newspaper reporters but it does urge so far as the officials of the courts come in contact

with them particular pains be taken to explain the exact facts of every case. By so doing misunderstanding and perhaps unjust criticism will be avoided.

PENALTIES.

From time to time the attention of the committee is called to failure on the part of Trial Judges to impose the penalties required by the statutes. There was a time in the past when there seemed to be an inclination to impose unusual penalties or conditions of probation but that practice has practically disappeared. It is not to be wondered at that in the multitude of offences and penalties all of us should from time to time err in not strictly complying with the statutes. This more often happens in the way of leniency than of severity. We urge the Justices to bear in mind the many mandatory penalties for it is in that class where most of the errors arise. Occasionally also a Trial Judge in the hurry of the day's work takes jurisdiction in cases which clearly belong in the Superior Court. Care should be exercised to see that we recognize the statutory mandates with respect to these matters.

STATE CONSTABULARY.

The Administrative Committee has from the beginning had most pleasant relations with General Foote, Commissioner of Public Safety. Frequent conferences and much correspondence have served to clear many matters which needed to be adjusted. General Foote is extremely anxious that all the members of the force shall not only do their police work in a satisfactory manner but that their relations with the Court shall be cordial and co-operative. He has asked that if there be any friction or trouble the matter be presented to him for adjustment. Your committee must state that it has found friction between the local police departments and the state constabulary in certain areas. It is not the part of the Courts to adjust such differences but so far as a friendly word as to the relationship which ought to be maintained may carry weight, we hope that there may be interest taken in the matter by the officials of the District Courts. There is plenty of work for each department to do and no necessity for overlapping. Sometimes a friendly conference will serve to adjust all differences and make the relationships of all parties harmonious. Patience should be shown with the members of the state constabulary in the actual trial of cases as they are of course not trained in the ways of the Court.

Any genuine case of over-officiousness or failure to discharge a duty or improper bearing in the Court Room should be reported to the committee for appropriate action.

FISH AND GAME LAW CASES.

Mr. William C. Adams, director of the Division of Fisheries and Game, has had considerable correspondence with your committee with respect to cases in which his department is interested. He has a feeling that in certain parts of the Commonwealth there is failure on the part of the Courts to appreciate the importance of the fish and wild game life with consequent failure to convict defendants brought before the courts by the men of his department. He has also complained that too much leniency is shown in disposing of these cases. Your committee has investigated many of his complaints and feels that the trouble is due to the fact that he looks at the cases from an administrative rather than a judicial point of view. However your committee urges recognition of the importance of the department over which he presides and the imposition of sentences where the defendants are found guilty which will not only punish but assist this department in the valuable work they are doing:

POOR DEBTOR LAW.

Your committee has met with many requests for information as to procedure under the new Poor Debtor Law. Many of the courts are finding an increasing use of the provisions of this law and some rather interesting questions have been raised. In certain of the courts a special study has been made and the forms have been developed to a greater extent than in ordinary use. Your committee is glad to be of service at any time in case questions arise which prove difficult of solution and suggests to the Justices and Clerks that they present their problems to the committee. We will in turn if we do not feel we are in possession of sufficient information to answer the questions presented transmit the inquiry to a Justice whom we feel to be particularly qualified to express an opinion and his answer will then be sent to the inquirer. We invite the same procedure in case of difficulty with respect to forms. It seems to the committee advisable at the present time that no encouragement should be given to any attempt to amend or modify the law by the present Legislature. We find this to be the view of many judges who have a large amount of poor debtor work to do. At the end of another year the merits and weaknesses of the new law will be more obvious.

MOTOR VEHICLE CASES.

The relationship between your committee representing the District Courts and the department of the Registry of Motor Vehicles is so pleasant and co-operative that we feel some of the more stringent recommendations which your committee has made in the past may well be relaxed especially in the cases where information is required from the Registry of Motor Vehicles before action may be taken by the courts.

CONFISCATED WEAPONS.

The Attorney General has called the attention of your committee to the fact that apparently the only weapons which are confiscated under the provisions of chapter 269 of the General Laws are old and unusable as such are the ones which are commonly received by the Commissioner of Public Safety. Obviously the majority of the weapons taken from prisoners are not of this character. The Attorney General has conferred with the Chief Justice of the Superior Court and we understand a rule has been established in that Court with respect to the disposition of such weapons. It has been suggested to your committee that a rule be likewise adopted by the District Courts. Your committee however is of the opinion that it is not wise to encumber the rules with administrative orders. It therefore suggests that each Court, as it has a right, put in effect a special rule which will require that immediately upon the order of confiscation being signed by the Court or Trial Justice the confiscated weapon be forwarded by the Clerk by common carrier to the Commissioner of Public Safety and the notation of such forwarding be entered upon the order. We urge the adoption of such a rule to the end that the real purpose of the law may be accomplished. This can apply obviously only to those cases which are not appealed to the Superior Court.

SUSPENDED SENTENCES.

Your committee is advised that there is no uniform method of disposing of cases in which a sentence has been suspended and the defendant placed on probation upon the expiration of the suspension period. The importance of proper entries has been increased by recent legislation. As illustrations of what may happen, a man was brought before a District Court on two complaints of selling intoxicating liquor to two different persons on the same day, was found guilty and sentenced to pay a fine of \$100, and to imprison-

ment for three months on each complaint, that is, total fines of \$200 and total imprisonment of six months. He paid the fines on the day of sentence and the execution of the sentences of imprisonment was suspended for six months, at the end of which time they were again suspended for six months and still again for six months, making eighteen months in all. At the expiration of the eighteen months the cases were filed. A few months later the same defendant was brought in again for liquor violations, he was found guilty and fined and sentences were imposed from which he appealed. Whereupon the Court took the first cases mentioned from the files and ordered the sentences of imprisonment to be executed. The defendant had no appeal from this action. It is obvious that in the normal case the defendant having paid the fine of \$200 and behaved himself for the eighteen months was entitled to have the sentences of imprisonment revoked rather than to have the cases filed. The filing was not a final "conviction."

Another case involved a defendant in a complaint alleging that he had been convicted of a like offence (driving a motor vehicle while under the influence of intoxicating liquor within a period of six years, etc.). The evidence disclosed that the defendant had been before a court within six years, was found guilty and sentenced to one month in the House of Correction and the execution of the sentence was suspended until a day certain at which time the complaint was placed on file. When this record was brought to the attention of the Trial Judge he properly ruled that "there was no evidence to show a final record of prior conviction."

Your committee is of the opinion there can be no doubt that when a complaint is filed with the defendant's consent or where it is filed after a defendant has been given a suspended sentence, such a disposition of a case does not constitute a final conviction.

Your committee suggests that for the present at least, the courts adopt the practice of revoking the entire sentence and then placing the case on file by the entry "Sentence revoked — case filed," or if there has been a part compliance with the sentence by the payment of a fine the entry be "Sentence to imprisonment revoked." Either of these entries would seem to show a final disposition of the case and to constitute a final conviction.

REQUEST.

Will the Clerk of each Court see that a copy of this letter and of the statistical sheet is placed in the hands of the Justice, Special Justices and Probation Officer. Additional copies may be had if required.

ARTHUR P. STONE.
PHILIP S. PARKER.
CHARLES L. HIBBARD.

SECOND LETTER.

JULY 1, 1929.

To the Justices, Special Justices, Clerks and Probation Officers of the District Courts: —

The members of your committee have at this writing practically completed a visitation of all the District Courts. To two of the committee this has been a new experience. While it has entailed the giving of many days to the task, we have obtained as we could in no other way a complete picture of the District Courts of the Commonwealth, their accommodations and the areas within which they function, and have become acquainted with the entire personnel. We have been able to make suggestions, to give advice as to correct solutions of problems and to help in the obtaining of new or better and improved accommodations. We frankly acknowledge that our own ignorance has often been revealed to us, and we have learned much from those whom we have met. We desire to record our genuine appreciation of the uniform courtesy, friendliness and hospitality shown to us throughout the state. We have noted especially the genuine pride and loyal interest of the officials in their respective courts and the improved and constantly improving accommodations and equipment. It has been a real pleasure for us to assist by word and letter in this highly necessary and desirable development. While there is still room for improvement, there are no such "disgraceful quarters" as the committee found on its first visit six years ago. We have followed the practice established by the committee, at the beginning of its work, of conferences with the executives and officials of departments and other courts. Here we have found the utmost of co-operation and good will. Especially happy and pleasant have been our contacts with the Registrar of Motor Vehicles. We have cleared the cases which have been submitted to us and advised as to the interpretation of statutes.

We acknowledge with pleasure and gratitude the untiring and friendly interest of Chief Justice Rugg in our courts and our work with and for them.

STATISTICAL REPORTS.

The necessary blanks will be sent to the clerks prior to October 1. The Judicial Council has asked the special favor that these reports be compiled in time for inclusion in their annual report. To meet this request each clerk must return the required information to us prior to October 15. Last year it was necessary to write to many of the clerks a second time and to a few a third and even a fourth time, and the final report was not received until late in November. We are confident our request for prompt action will be honored.

REPORTS OF CLERKS REQUIRED BY CHAP. 59, ACTS OF 1927.

Our attention has been called to the failure of clerks to meet the requirements of this statute. This is the chapter which requires that in certain cases the clerk shall give notice to the Department of Mental Diseases. The importance of such reports was clearly indicated in certain cases before the Superior Court of Middlesex County. The clerk of a District Court in that County wherein the defendants were bound over on January 23, 1929, having failed to report before indictment on February 6, the cases were disposed of on February 7, without examination.

DRIVING A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR.

This offence and the cases arising out of its commission still continue to give us trouble. Nearly every year we have in our letters referred to some problem connected with this subject. We are happy to say that the courts have, with few exceptions, complied with the requirements of the statute awkward and troublesome as they are. Some offenders for the second time have escaped the jail sentence made mandatory by law. In a few cases this has been due to fault or carelessness but in most instances to the fact that the record of the first offence was not such as to constitute a final conviction as these words are generally interpreted. Some judges evidently think that a fine only is the proper punishment if the first offence cannot be legally proved. In our investigation of such cases we have usually agreed with the interpretation of the words "finally convicted" as given by the Trial Courts but we have felt that the more severe penalty of a jail sentence allowable for a first

offence might well have been imposed in certain of these cases. To meet the difficulty encountered a number of times of no record in the registrar's office because of the non-completion of the cases before a subsequent arrest, we have suggested to him that he adopt some measure which would enable his office to transmit information to the courts that inquiry had been addressed to him as to the record of the individual but that the case had not been completed to the extent at least that his office had received the final record from the court. This information would naturally put the inquiring court upon its guard and prevent the final disposition of the case until more definite information was made available. To rid ourselves of the technical defence of no "final conviction" due to pleas of *nolo contendere*, suspended sentences, probation and filing, we have suggested to the Judicial Council that they recommend an amendment to the statute to read as follows: —

"SECTION 1B. For the purposes of section 1 a person shall be held to have been finally convicted of driving a motor vehicle while under the influence of intoxicating liquor if he shall have pleaded *nolo contendere* or shall have been found or adjudicated guilty of the offence by a court of competent jurisdiction and thereafter sentenced and no appeal or exceptions are pending notwithstanding the sentence shall have been suspended and he have been placed on probation or notwithstanding he shall have been placed on probation or the case have been filed."

CIVIL SERVICE REVIEWS.

A petition was recently filed in one of our District Courts asking for a review of a decision of the Commissioner of Public Safety removing a Boiler Inspector from office, the petition being under the provisions of General Laws, Chapter 31, section 45, as amended by Statutes 1925, Chapter 220, section 3.

At the hearing upon the petition, the petitioner offered to prove that at the time of the filing of charges against him, the Commissioner held personal enmity against him and that he procured another to file the charges. The offer also covered certain acts of the commissioner indicating such hostility. The Judge of the District Court found that this evidence had not been presented at the hearing before the commissioner, that no claim was made that such testimony had been offered and excluded or that the petitioner had been improperly restricted in the presentation of his case before the commissioner. The judge thereupon excluded the testimony thus offered. The petitioner excepted to the exclu-

sion and filed a writ of *certiorari* in the Supreme Court alleging the ruling of the Court was erroneous. This petition was heard on the petition and a return which admitted the truth of the facts by a single Justice who thereafter dismissed the petition both as a matter of law and a matter of discretion.

To the extent above indicated this case defines the meaning of the word "review" by a Judge of a District Court under the statute first above referred to.

TAKING JURISDICTION IN SERIOUS OFFENCES.

A case recently before the Superior Court in Suffolk County has emphasized the importance of exercising discretion in accepting jurisdiction in certain criminal cases. The defendant in this case was found guilty of the larceny of a large sum of money by a jury in the Superior Court. The Judge sentenced the defendant to the State Prison for a term of from three to five years but it was called to his attention that the defendant was before the Court on appeal from the Municipal Court wherein a judge had accepted jurisdiction and imposed a sentence of one year and fines aggregating \$3,500. The Judge of the Superior Court was thus restricted in the sentence to one allowed to be imposed by the Municipal Court. The sentence to the State Prison was revoked and a new sentence imposed.

It is therefore suggested there may be cases where because of the seriousness of the offence and/or the record of the defendant we should not accept jurisdiction but bind over to the Grand Jury and thus leave the Superior Court free to deal with the case after conviction without any statutory restriction arising out of jurisdiction.

ILLEGITIMATE CHILDREN'S CASES.

In the Illegitimate Child Act, G. L. Chap. 273, it is provided that money forfeited by recovery upon a recognizance may be paid to the probation officer for the benefit of the child. (Sec. 18.) It is usually desirable that the defendant if placed on probation give bail and the bail in such instances should be for his further appearance and for compliance with the order of the Court. It is doubtful if the bail bond given upon his arrest can be continued so as to cover his case after he has been placed on probation. A new bond should be ordered. Such a bond has been prepared and a copy can be had by any Justice or Clerk upon request addressed to the Chairman of the Committee.

PROTECTION OF OFFICERS.

We have all been at times troubled lest an efficient police officer be subjected to a suit for malicious prosecution when a finding of not guilty is made or when a case is dismissed. We suggest that when both complainant and defendant are in court inquiry be made of the complainant if he is willing the case be dismissed and of the defendant if he consents thereto. The Clerk can then make the entry "Dismissed at or by request of complainant and with the consent of the defendant." This entry would seem to be an effective bar to any suit for malicious prosecution but in some courts both parties sign an endorsement to this effect upon the complaint.

SPECIAL JUSTICES.

The Attorney General and Judicial Council in their respective reports this year recommended legislation prohibiting Special Justices from acting as counsel for defendants in criminal cases in their own courts. A measure carrying out this recommendation nearly reached the enactment stage in the Legislature when, according to the newspapers, it was referred to the next General Court upon the advice of one of the senators who stated that the Special Justices' Association had agreed to remedy the situation.

There has been a marked change in the practice since your committee first raised a question as to the propriety of such appearances until today in many of the courts, especially the larger ones, the Special Justices have voluntarily withdrawn from such practice. Your committee is not unanimous in its judgment as to the wisdom of the aforesaid recommendation especially because of its possible effect in the smaller courts but does believe in the principle underlying it.

We are however unanimous in our judgment that there should be but one organization of the Justices of the District Courts. The Justices' Association, long in existence, welcomes as members both Justices and Special Justices. Through it and this committee all matters properly open for consideration or action should clear. We are at a loss to understand what matters can properly be considered by the Special Justices by themselves. Obviously the Presiding Justices of the courts are the ones upon whom the responsibility rests for the proper conduct thereof. No problem connected with the administration of justice in these courts can properly be decided without the determining judgment of the Presiding Justices. Two organizations will be likely to work at cross purposes. We do not know to what extent the Special Justices may

have membership in what is known as the Association of Special Justices, but we are quite confident that this association should disband and that the Special Justices should make known their judgment through the Justices' Association and not undertake to settle any problems of the Courts by themselves or to influence legislation affecting the Courts without consultation with those more immediately charged with the responsibility for the courts.

DISTRICT COURT JUDGES SITTING IN THE SUPERIOR COURT.

In the last report of the Judicial Council major emphasis is laid upon the congested condition of the civil side of the Superior Court. Enlightening statistics clearly reveal the large percentage of cases in which the verdicts are relatively small, the cost of jury trials and the congested condition of the dockets. The bulk of the cases might very properly have been brought in the District Courts with probable advantage to the public, litigants and the bar. Two remedies are proposed: —

- (1) An increased entry fee and a jury fee, and
- (2) The use of District Court Justices and Special Justices on the civil side of the court in a manner analogous to the present use on the criminal side.

With the first remedy, namely increased or supplemental fees, we have no official concern.

In the second proposal, namely the use of District Court Justices and Special Justices we find ourselves unable to agree with the Judicial Council.

The results of the employment of the District Court judges on the criminal side in the Superior Court have abundantly justified the experiment. We have never dissented from the judgment of those responsible for this experiment. We recognize the congestion existing in the Superior Court especially in the eastern part of the state when the law was enacted. The very essence of sound administration of the criminal law is prompt trials and dispositions. Especially is this true in appeal cases. Our Justices brought to this service experience in the administration of criminal law, capacity to detect falsehood and built-up defence and courage to resist specious appeals to sympathy. Neither the criminal element nor their counsel could deceive them or turn them from the imposition of sentences of a severity commensurate with the circumstances. These Justices have performed a real service and brought relief from a troublesome condition. We are not entirely sure however

that this service has not to some extent been at the expense of those courts whose Presiding Justices have been drafted.

It seems to us to be unwise to further draw upon the District Courts. These courts are growing in importance and in volume of business. The present Legislature has removed the jurisdictional limit on the civil side. The Presiding Justice determines the policies, guides the work of the other officials and it is essential he be not taken from his court for long periods of time. Moreover the Special Justices have just cause to complain for they are called upon for so much service that their private business interests suffer, and a lawyer who loses his practice finds it difficult to regain it again. We know how some of these Special Justices feel and sympathize with them. The District Courts should not be bled for the benefit of any other court. It is not necessary and probably it would be impertinent for us to suggest in what manner the Superior Court should care for its own work. We have sufficient confidence however in that court to feel there is abundant ability and capacity to solve its own problems. We must respectfully protest further weakening of the district courts by transfusion of their strength to meet any exigencies in the Superior Court.

MINOR MOTOR VEHICLE OFFENCES.

Our visits to the District Courts do not disclose any marked congestion due to minor motor vehicle offences. In a few of the larger courts such cases do at times reach considerable volume and there may be congestion for a day or two but on the whole the situation is well in hand. We see no reason for the setting up of independent traffic courts, but with the recommendation of the Judicial Council that no criminal record should attach to those convicted of these offences we are in entire accord.

APPELLATE DIVISIONS.

We extend the statistical record of the work in these divisions as it appeared in our circular letter of July 1, 1928, to cover the year 1927-1928.

1923-1924	.	.	.	.	.	.	56
1924-1925	.	.	.	.	.	.	72
1925-1926	.	.	.	.	.	.	82
1926-1927	.	.	.	.	.	.	96
1927-1928	.	.	.	.	.	.	153
1928-1929	.	.	.	.	.	.	183

We also extend the statistics of civil cases entered, removals to Superior Court, criminal cases begun and criminal appeals for the same period of time.

	Civil Cases Entered.	Removals.	Criminal Cases Begun.	Criminal Appeals.
1923-1924	36,405	2,473	163,530	9,504
1924-1925	29,561	3,224	168,681	10,149
1925-1926	43,294	1,853	161,809	9,595
1926-1927	47,413	1,775	165,015	9,184
1927-1928	54,591	1,971	168,636	9,590
.	62,203	1,782	174,370	8,629

ACTS OF 1929.

The Legislature of 1929 passed several measures which are of interest to our courts. We append a list of the most important.

CHAP. 30. Exempts probation officers from the laws applicable to professional bondsmen. Approved Feb. 8, 1929.

CHAP. 101. Provides that written demands of the Registrar of Motor Vehicles for the return of certificates of registration and licenses to operate may be used temporarily in lieu thereof. Approved March 11, 1929.

CHAP. 105. Makes accessible to probation officers certain reports with reference to the mental condition of certain persons held for trial. Approved March 11, 1929.

CHAP. 136. Authorizes the commitment of certain mentally afflicted persons to federal hospitals for observation. Approved March 19, 1929.

CHAP. 147. This is captioned "An Act to regulate traffic at intersecting ways." Generally speaking the amendments do little more than put in the form of a legislative act the present law and its interpretation based upon court decisions. There may be considerable question as to whether the Legislature has improved matters by this legislation. We hope to be able to insert in this letter a diagram explanatory of this legislation which the Registrar of Motor Vehicles has prepared. Approved March 22, 1929.

CHAP. 172. This is an Act to expedite the collection of debts. In substance it provides that a plaintiff seeking to recover a debt or liquidated demand may at any time after the defendant has appeared, or in a removed case after its entry, on affidavit by himself or by any other person who can swear to the facts of his own knowledge, certifying the cause of action and stating that in his

belief there is no defense thereto, move for the immediate entry of judgment, etc. This Act is operative on September 1.

CHAP. 179. Changes the name of the Commission on Probation and of its executive officer. Approved April 2, 1929.

CHAP. 203. Amends the definition of "motor vehicles" under Motor Vehicle Law. Approved April 5, 1929.

CHAP. 216 is an Act relative to the revision of the amount of bail of certain defendants in criminal cases. This Act takes effect September 1.

CHAP. 230. Provides for an assistant to the Registrar of Motor Vehicles. In effect April 17, 1929.

CHAP. 258. This Act in substance provides that in a prosecution for desertion or non-support against a husband, a decree of judgment of a Probate Court in a proceeding in which the husband appeared or was personally served with process establishing the right of the wife to live apart or of a freedom to convey and deal with her property, or right to custody of the children, shall be admissible and shall be *prima facie* evidence of such right.

For the reasons prompting this legislation, reference may be had to the last report of the Judicial Council. The Act is operative on September 1.

CHAP. 265. In substance this Act requires the transmission to the full bench of the S. J. Court of the opinions filed in the cases decided in the Appellate Division of any District Court. This becomes operative September 1.

CHAP. 291. Extends to December 31, 1932, the duration of the law providing for trial of certain criminal cases by District Court judges sitting in the Superior Court.

CHAP. 298. Establishes the fees of witnesses in District Courts and other tribunals. Effective September 1, 1929.

CHAP. 303. Establishes thirty as the number of interrogatories in civil actions which may be filed as of right. Effective September 1, 1929.

CHAP. 316. Gives the District Courts civil jurisdiction in cases irrespective of the amount of the *ad damnum*. Effective September 1, 1929. Attention is called to the different removal provisions in section 3 dependent upon the amount of the *ad damnum* named in the writ.

CHAP. 329. Amends the law with reference to the disposition of motor vehicles seized and held to be containers or implements of sale of intoxicating liquor. Approved May 20, 1929.

SUPREME COURT DECISIONS.

We do not find as many decisions of the Supreme Court during the past year of special interest to the District Courts as in some previous years. We have however listed the following:—

Commonwealth v. Bird — Non-support of illegitimate child. Banker & Tradesman, 1928, page 408. Adv. Sheets 1928, page 1649.

Commonwealth v. Dale.

Commonwealth v. Dale.

Commonwealth v. Dunn — Operating an automobile while under the influence of intoxicating liquor. B. & T. 1928, page 438. Adv. Sheets 1928, page 1695.

Cerrato v. Miller — Practice — Motion for new trial — Discretion of Judge. B. & T. 1928, page 502. Adv. Sheets 1928–1731.

Commonwealth v. Grace — Breaking and entering and larceny — Burglarious implements in possession. Evidence — B. & T. 1929, page 18. Adv. Sheets 1928–1909.

Commonwealth v. Farese — Conspiracy to manufacture, etc., intoxicating liquor. B. & T. 1929, page 49. Adv. Sheets 1928, page 2187.

Ferguson v. Melillo — Contract — Dismissal of action because of failure of plaintiff to furnish copy of declaration, etc. B. & T. 1929, page 212. Adv. Sheets 1929, page 409.

DiRuscio v. Popoli — Poor Debtor — Continuance by Court after hour set for examination had expired. Lack of jurisdiction. B. & T. 1929, page 322. Adv. Sheets 1929, page 649.

McNeil v. Powers — Statute 1928, chap. 317. B. & T. 1929, page 322. Adv. Sheets 1929, page 653.

CRITICISM OF THE COURTS.

For nearly seven years now your committee has been emphasizing the fact that today there is a District Court of Massachusetts rather than seventy-two different District Courts. If there ever was a time when it could properly be said that each court existed and functioned independently of the others that period has passed. There is now such a unity that if one member of the body offends the whole system suffers. The truth of this statement is not affected by the exclusiveness of jurisdiction or independence in the exercise of judicial judgment.

We have sought to realize and to impress upon the officials of our Courts that as a consequence no one of us can or should order our ways without some regard for the consequences to our fellow-

workers. It is our conviction that the truth of the foregoing statement has been and continues to be recognized by the majority of those connected with the District Courts but we regret to say some of our friends still are unconvinced, and by their words, acts and conduct bring criticism upon the whole judicial system and unjustified as well as unwelcome criticism upon those who are not the real offenders. Prejudice, arbitrariness, lack of manners or consideration, over-consciousness of authority, inattention to duty or failure to decide issues promptly are all quickly recognized and resented. Aside from the illogical but nevertheless real inclusion of the innocent with the guilty in this criticism two serious and impeding results follow, namely wise legislation fails of enactment because of the unfortunate experience of legislators or their friends with certain court officials and much legislation is proposed and occasionally becomes law for like reason. We are all conscious of the persistent effort to change an appointive to an elective judiciary. We are confident the most powerful force and the most cogent argument back of the movement is resentment and lack of respect due to the factors above stated. So seriously do we regard this matter that we are running the risk of being criticized for this frank statement. Our files contain ample evidence of the validity of some of this comment and this has been supplemented by word of mouth and news report.

How can we in private conversation or before a legislative committee successfully defend our District Courts from the criticism of delay in the decision of civil actions such as is found in a recent article in the *Massachusetts Law Quarterly* when we know that the facts in several courts support the writer. The way to decide cases is to decide them at once and while the evidence is clearly in mind, and not put the papers in a pigeon hole. Our attention was called in one jurisdiction to cases which a Special Justice had held for one, two and even six years. The success of our Appellate Divisions depends largely upon the speedy hearings and decisions by the Trial Judge. Unless difficult questions are involved there can be no legitimate excuse for delayed decisions. As a matter of interest we call your attention to the practice in one District Court that a Special Justice holding a civil case undecided beyond fifteen days will not be assigned to a civil sitting until he has decided that case.

In this same article reference is made to the refusal of a District Court Judge to permit of the examination of defendants in poor debtor proceedings as to their bills receivable on the ground that such were not assets. The reason for such ruling is apparently a

belief that the poor debtor law should be construed for the benefit of the debtor and not the creditor. What excuse can be offered to a legislative committee for such an assumption of the right to say whether a law is right or wrong?

Again what excuse can be offered for a probation officer who importantly and offensively discharges his duty to obtain certain data from defendants in criminal cases? Reason and justice require some distinction between a criminal and one who violates an administrative rule. No wonder a petition was filed in the Legislature to forbid such inquiry. Yet its passage would have seriously impaired a very necessary part of our Court system, namely the records kept by the probation commissioner.

What excuse can be offered for doubling the sentence when a defendant appeals in a criminal case? Presumably a proper penalty was imposed in the first instance. The defendant has a right to appeal and to penalize him for exercising that right is an abuse of judicial power. Occasionally a change in penalty may be justified by the facts or to remove all complaints to the Superior Court by an appeal.

What excuse can be offered for a Court where sentences are imposed beyond the statutory maximum "to give them something to appeal from"? The Superior Court can do nothing to support a District Court Judge under such circumstances. There is no argument as to the lack of judicial poise when such a state of things exists.

What excuse can we offer for an obvious desire to construe laws if possible so that the intent of such laws may be thwarted and yet there are some men who seem to delight so to do. The disposition of certain cases under the statute relating to motor vehicles has furnished illustration of such unwise conduct.

What excuse can be offered for officials who refuse to act upon a complaint for non-support because the case has been or still is in the Probate Court? The statutes, the proof, the reasons for the statutory provision and the object sought are all different.

What excuse can be offered for a clerk who neglects to file his reports promptly, declines arbitrarily to receive complaints and does not co-operate with the Judge of the Court?

These are a few of the criticisms we have heard. They are sufficient and apt illustrations to support and emphasize the comment which appears in the first part of this section. We record them with a confident expectation that the result of this frank statement will be the accomplishment of the objects sought.

There were a number of changes made in the rules at a meeting of the justices on Saturday, June 8. These are effective as of July 1, next. In a general way they have to do in largest part with the procedure in Appellate Division cases. These amendments will be printed and made available through the Justices' Association. It will be borne in mind no change was made in the period of time within which a request for a report must be filed for that time is fixed by statute. The Administrative Committee has requested the Judicial Council to recommend legislation extending the present two-day period to five days.

P. P. A. CASES.

We are advised the Superior Court has revoked its rule requiring the approval of agreements for judgment in these cases before entry of judgment. The members of our committee think, and their judgment is supported by the opinion of many justices, that we ought to continue to consider such agreements when presented to us as a legitimate service. We recommend that approval be something more than formal. Each case should be investigated to determine the extent of the injury, the amount of the counsel fees and the disposition of the monies. Some judges require the presence in court of the "next friend" and others require a doctor's certificate as to the extent of the injuries. Unless there is some check on these cases gross abuse of rights and excessive fees may be consequences. This matter, too, has been called to the attention of the Judicial Council.

INTERPRETATION OF STATUTE 1926, Chap. 340, sec. I.

The clerks will bear in mind the recent decision of the Supreme Judicial Court in the case of *Commonwealth vs. Tsouprakakis* (Adv. Sheets, 1929, page 1321), wherein the word "occasion" is interpreted. In substance the Court holds that this word is to be interpreted as applying to individual defendants and not to occasions of time.

INTERPRETATION OF 1928, Chap. 281, sec. I.

Inquiry has several times been addressed to the committee as to the proper interpretation of the words "or in any place to which the public has access" as found in the Motor Vehicle Law. It is our opinion that these words were intended to cover practically all

places other than private grounds surrounding a man's home or a place of business from which the public is barred. They seem to us apt words to accomplish their purpose. Our courts should so interpret them that full effect is given to the intent of the Legislature in enacting the law.

INTERPRETATION OF GENERAL LAWS, Chap. 90, sec. 13.

It has been ruled in some courts that the proper interpretation of the word "anything" in the phrase "No chauffeur or operator when operating a motor vehicle shall have or permit to be on or in such vehicle or on or about his person anything which may interfere with, etc.", as found in General Laws, Chapter 90, section 13, should exclude human beings. In our judgment the word "anything" was intended by the Legislature and should be construed by our courts to include everything animate or inanimate.

We cannot make this circular letter helpful and informative without seeming to act as mentor. We trust, however, that you will acquit us of any desire to assume the role of such or of the school teacher or lecturer.

ARTHUR P. STONE.

PHILIP S. PARKER.

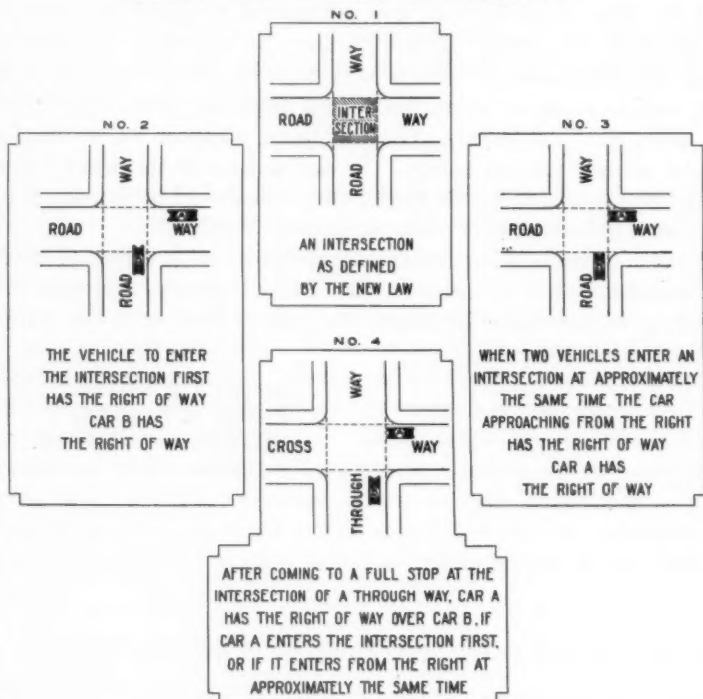
CHARLES L. HIBBARD.

Members of the Committee.

MASSACHUSETTS

RIGHT OF WAY LAW

SECT 8 AND 9 CHAP 89 OF GENERAL LAWS
IN EFFECT JUNE 21, 1929



REGISTRY OF MOTOR VEHICLES
GEORGE A PARKER, REGISTRAR

Drawn by
ENOS W. COOK
Quincy

APPENDIX B. STATISTICAL TABLES.

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STATISTICAL TABLES.

TABLE OF CASES DECIDED BY THE SUPREME JUDICIAL COURT, 1874-1928.

COURT YEAR BEGINNING SEPTEMBER 1.	Number of Cases Decided.	Reported in the Following Volumes of Massachusetts Reports.	COURT YEAR BEGINNING SEPTEMBER 1.	Number of Cases Decided.	Reported in the Following Volumes of Massachusetts Reports.
1874	394	115, 116, 117, 118	1902	348	182, 183, 184
1875	418	118, 119, 120	1903	354	184, 185, 186
1876	403	120, 121, 122, 123	1904	384	186, 187, 188
1877	388	123, 124, 125	1905	484	188, 189, 190, 191, 192
1878	334	125, 126, 127	1906	441	192, 193, 194, 195, 196
1879	316	127, 128, 129	1907	397	196, 197, 198, 199
1880	372	129, 130, 131	1908	413	199, 200, 201, 202, 203
1881	293	131, 132, 133	1909	356	203, 204, 205, 206
1882	344	133, 134, 135	1910	390	206, 207, 208, 209
1883	374	135, 136, 137	1911	388	209, 210, 211, 212
1884	367	137, 138, 139, 140	1912	427	212, 213, 214, 215
1885	385	140, 141, 142	1913	472	215, 216, 217, 218
1886	399	142, 143, 144, 145	1914	432	218, 219, 220, 221
1887	321	145, 146, 147	1915	433	221, 222, 223, 224
1888	349	147, 148, 149	1916	417	224, 225, 226, 227, 228
1889	344	149, 150, 151, 152	1917	391	228, 229, 230, 231
1890	321	152, 153, 154	1918	340	231, 232, 233
1891	422	154, 155, 156, 157	1919	341	233, 234, 235, 236
1892	354	157, 158, 159	1920	378	236, 237, 238, 239
1893	341	159, 160, 161, 162	1921	356	239, 240, 241, 242
1894	333	162, 163, 164	1922	397	242, 243, 244, 245, 246
1895	356	164, 165, 166	1923	422	246, 247, 248, 249
1896	371	166, 167, 168, 169	1924	419	249, 250, 251, 252, 253
1897	397	169, 170, 171, 172	1925	483	253, 254, 255, 256, 257
1898	339	172, 173, 174	1926	515	257, 258, 259, 260, 261
1899	366	174, 175, 176	1927	467	261, 262, 263, 264
1900	381	176, 177, 178, 179	1928	496	264, 265, 266, 267
1901	381	179, 180, 181, 182			

REFERENCES TO AUDITORS AND MASTERS IN THE
SUPERIOR COURT.

CALENDAR YEAR, 1928.

COUNTY.	Auditor.	Master.
Barnstable	4	3
Berkshire	3	6
Bristol	23	24
Essex	29	83
Dukes	-	-
Franklin	5	5
Hampden	29	59
Hampshire	4	8
Middlesex	27	94
Nantucket	-	-
Norfolk	26	27
Plymouth	10	15
Suffolk	62	207
Worcester	25	80
	267	611

Two or more cases to be tried together are counted as one reference.

AUDITORS, MASTERS AND REFEREES, AMOUNTS EXPENDED
1923 TO 1928, INC., BY COUNTIES.

COUNTY.	1923.	1924.	1925.	1926.	1927.	1928.
Barnstable	\$331 03	\$62 50	\$795 83	\$631 23	\$1,066 58	\$1,231 94
Berkshire	780 14	1,771 64	1,227 92	1,535 80	3,225 60	2,103 61
Bristol	3,564 17	6,900 70	3,468 36	4,959 28	5,333 79	5,497 40
Dukes	25 00	93 75	15 00	202 71	98 90	381 24
Essex	12,858 42	14,827 18	15,278 77	13,531 28	14,570 83	14,658 94
Franklin	1,447 50	1,091 66	347 00	1,673 14	1,249 42	795 83
Hampden	15,660 24	11,844 64	6,219 79	15,362 85	13,411 80	9,484 62
Hampshire	1,083 33	3,335 71	1,487 18	1,815 21	2,321 39	1,733 79
Middlesex	20,001 17	21,487 87	28,184 55	23,864 70	23,976 96	22,853 33
Nantucket	76 39	8 33	92 50	50 00	-	-
Norfolk	3,587 53	3,156 07	4,241 13	4,953 15	3,941 73	12,993 35
Plymouth	3,764 07	4,648 78	5,066 60	8,374 77	5,703 12	4,795 07
Suffolk ¹	80,846 02	68,301 76	94,313 05	59,027 78	67,920 79	66,906 72
Worcester	8,689 38	10,200 26	11,707 43	10,471 07	10,341 14	18,810 35
	\$152,714 39	\$147,730 85	\$172,445 11	\$146,452 97	\$153,162 05	\$162,246 19

¹ Investigators included 1923 and 1924.

NOTE: In Suffolk County these figures apply to the Superior Court (civil) only. In other counties they apply to all courts.

ABSTRACT AND TABULAR STATEMENT OF THE RETURNS RELATIVE TO THE LAW, EQUITY, DIVORCE AND CRIMINAL BUSINESS OF THE SUPERIOR COURT — *Continued.*

COUNTIES.	CIVIL CASES.					NUMBER PENDING AT END OF YEAR, INCLUDING PENDING INACTIVE CASES.					NUMBER TRIED DURING YEAR.					NUMBER OF EQUITY CASES IN WHICH ISSUES WERE TRIED TO A JURY.						
	NUMBER FINALLY DISPOSED OF.			LAW.		Divorce and Nullity.	Equity.	LAW.	Without Jury.	Jury.	Divorce and Nullity.	Equity.	LAW.	Without Jury.								
	Jury.	Without Jury.	Divorce and Nullity.	Equity.	LAW.										Without Jury.		Jury.	Divorce and Nullity.	Equity.	LAW.	Without Jury.	Jury.
Barnstable . . .	71	31	-	7	-	256	122	65	20	8	-	-	-	-	-							
Berkshire . . .	170	58	1	25	1	431	156	127	43	40	11	21	1	1	-							
Bristol . . .	567	201	2	50	2	2,059	649	502	191	93	13	12	2	2	1							
Dukes . . .	10	8	2	-	2	23	41	13	8	2	-	-	1	1	-							
Essex . . .	1,504	263	12	146	12	5,605	948	894	259	225	51	30	6	6	-							
Franklin . . .	134	19	-	12	-	251	107	124	26	26	4	-	-	-	-							
Hampden . . .	1,121	331	279	119	279	3,131	1,035	848	695	161	19	16	187	-	-							
Hampshire . . .	121	24	2	5	2	294	132	100	40	39	-	-	1	1	-							
Middlesex . . .	3,143	533	6	257	6	10,626	2,067	1,505	68	423	48	55	5	5	-							
Nantucket . . .	6	-	-	2	-	14	-	2	-	-	-	-	-	-	-							
Norfolk . . .	806	200	6	56	6	2,594	750	335	103	106	21	7	2	2	1							
Plymouth . . .	366	77	47	28	47	1,397	367	282	193	80	5	2	51	-	-							
Suffolk . . .	9,441	1,620	30	1,079	30	29,591	6,679	5,372	286	1,089	243	378	26	4	-							
Worcester . . .	1,573	366	5	147	5	4,811	942	640	194	225	75	15	3	-	-							
Total . . .	19,063	3,731	401	1,933	401	61,173	13,995	11,809	2,126	2,517	490	536	285	6	-							

ABSTRACT AND TABULAR STATEMENT OF THE RETURNS RELATIVE TO THE LAW, EQUITY, DIVORCE AND CRIMINAL BUSINESS OF THE SUPERIOR COURT. — *Continued.*

COUNTIES.	CIVIL CASES.									
	NUMBER AWAITING TRIAL AT END OF YEAR.					NUMBER MARKED INACTIVE DURING THE YEAR UNDER RULE OF THE COURT.				
	LAW.			Divorce and Nullity.	Equity.	LAW.			Divorce and Nullity.	Equity.
	Jury.	Without Jury.				Jury.	Without Jury.			
Barnstable . . .	207	103	51	20	16	6	2	18	21	46
Berkshire . . .	222	57	47	43	27	16	—	41	45	74
Bristol . . .	1,930	406	179	182	68	63	—	185	216	195
Dukes . . .	—	—	—	—	—	—	—	—	2	14
Essex . . .	5,693	906	857	259	136	95	3	255	484	337
Franklin . . .	105	38	40	1	13	9	1	24	48	74
Hampden . . .	2,982	989	771	564	137	111	91	220	382	424
Hampshire . . .	267	123	99	40	39	11	2	34	30	61
Middlesex . . .	10,496	1,998	1,474	65	1,021	165	9	57	616	701
Nantucket . . .	14	—	2	—	—	—	—	—	—	—
Norfolk . . .	2,577	750	335	103	254	48	3	99	110	105
Plymouth . . .	1,368	337	233	160	130	43	7	117	102	198
Suffolk . . .	25,751	4,317	5,950	177	2,225	1,043	36	232	3,147	3,550
Worcester . . .	4,749	911	620	194	594	102	4	192	231 ¹	450
Total . . .	56,361	10,935	10,658	1,808	5,633	1,712	158	1,474	5,364	6,293
										19,268
										2,924
										1,209

¹ One taken from last year's report in which there is a receiver.

ABSTRACT AND TABULAR STATEMENT OF THE RETURNS RELATIVE TO THE LAW, EQUITY, DIVORCE AND
CRIMINAL BUSINESS OF THE SUPERIOR COURT — *Concluded.*

COUNTIES.	CRIMINAL CASES.									
	Number remaining at first of year.	Number of indict- ments returned.	Number of appeals cases.	Number of actions on bail bonds or recognizances en- tered.	Number disposed of in previous years brought forward for redispotion.	Number disposed of during year.	Number remaining at end of year.	Number tried during year.	Number awaiting trial at end of year.	Number of days dur- ing which Court has sat for trials, hearings or dispo- sitions.
Barnstable	60	41	66	1	1	100	67	8	52	11
Berkshire	119	43	68	4	1	176	58	19	15	22
Bristol	1,055	407	1,650	6	1	2,184	934	68	665	65
Dukes	10	2	13	1	1	16	0	1	1	1 ¹
Essex	541	466	1,023	51	67	1,456	692	279	493	177
Franklin	24	18	30	1	1	54	18	4	12	11
Hampden	226	150	401	10	2	495	294	71	294	59
Hampshire	130	55	135	2	1	242	80	50	58	38 ¹
Middlesex	401	1,151	1,468	40	107	2,568	299	544	273	267
Nantucket	—	—	2	1	1	2	1	1	1	2
Norfolk	198	217	362	2	32	599	212	94	191	102
Plymouth	166	245	388	5	143	682 ¹	284	94	142	83
Suffolk	834	979	5,189	75	313	7,029	361	1,183	249	791
Worcester	158	280	1,131	23	84	1,622	54	139	43	130
Total	3,931	4,054	11,926	218	749	17,534	3,363	2,553	2,488	1,760

¹ Including 19 cases with 2 dispositions during year.

Tables showing the amounts claimed in the writ (known to lawyers as the *ad damnum*) and the verdicts and findings in all cases tried with or without jury in the Superior Court in every county in the Commonwealth during the year ending June 30, 1929. The tables were prepared for the Judicial Council by T. Francis O'Brien, Esq., of the Middlesex bar.

SUFFOLK COUNTY.

TRIAL RECORD, YEAR ENDING JUNE 30, 1929.

Jury	Contract	. . . . .	446	Total	. . . . .	1,614
	Torts	. . . . .	1,168			
Jury Waived	Contract	. . . . .	57	Total	. . . . .	137
	Torts	. . . . .	80			
Cases in both sessions, total						1,751

TABLE OF VERDICTS AND FINDINGS.

Contract.

Jury	Plaintiff	. . . . .	192	Jury Waived	Plaintiff	. . . . .	25
	Defendant	. . . . .	114		Defendant	. . . . .	23
	Settled, etc.	. . . . .	140		Settled, etc.	. . . . .	9

Tort.

Jury	Plaintiff	. . . . .	289	Jury Waived	Plaintiff	. . . . .	61
	Defendant	. . . . .	291		Defendant	. . . . .	17
	Settled, etc.	. . . . .	588		Settled, etc.	. . . . .	2

SETTLEMENTS, ETC.

Jury:				Jury Waived:			
Settled	. . . . .	337			. . . . .	7	
Continued	. . . . .	121			. . . . .	1	
Discontinued	. . . . .	19			. . . . .	0	
Nonsuits	. . . . .	118			. . . . .	1	
Defaults	. . . . .	90			. . . . .	2	
Disagreements	. . . . .	41			. . . . .	0	
Mistrials	. . . . .	1			. . . . .	0	
Reported to Auditor	. . . . .	1			. . . . .	0	
Total	. . . . .	728			. . . . .	11	

NOTE 1.

In addition to 1,168 Tort cases, as shown above, there were 165 cases settled, known as the "Pickwick Club Cases" that were not listed on the Docket; also; 38 cases, known as the "Andrew Square Cases" against the Boston Elevated Railway, no decision shown on Docket.

NOTE 2 — JURY WAIVED SESSIONS.

31 petitions and motions, disbarments, to vacate judgments and dismissals.

91 hearings on demurrers.

7 cases reported to an auditor.

173 cases (no *ad damnum* shown), about one hundred of these were assessment of damage cases and the rest were of defaults and nonsuits in contract cases and some land damage cases, and there were a few had neither an *ad damnum* or a finding recorded.

14 cases, no finding shown.

316 Total

In addition to the above there were 440 Equity Matters.

SUFFOLK COUNTY — Continued.
SCHEDULE OF AD DAMNUMS, SHOWING VERDICTS.
CONTRACT — JURY SESSIONS.

Amount Claimed in Writ.

\$3,000 or Less.			\$3,000 to \$5,000.		\$5,000 to \$10,000.		Over \$10,000.	
VERDICTS.								
\$2,653 00	\$1,028 00	\$584 00	\$241 00	\$3,926 00	\$7,527 00	\$37,205 00		
2,628 00	1,026 00	567 00	236 00	3,899 00	5,922 00	10,190 00		
2,621 00	996 00	550 00	231 00	3,486 00	5,107 00	9,700 00		
2,412 00	985 00	546 00	229 00	3,405 00	4,120 00	5,000 00		
2,223 00	950 00	543 00	227 00	3,221 00	4,105 00	270 00		
2,218 00	942 00	538 00	226 00	3,185 00	3,287 00			
2,149 00	919 00	538 00	225 00	3,062 00	1,000 00			
2,100 00	911 00	535 00	219 00	2,937 00	894 00			
2,084 00	907 00	518 00	209 00	2,250 00	331 00			
2,076 00	890 00	500 00	206 00	2,250 00				
2,032 00	865 00	500 00	205 00	2,250 00				
2,000 00	862 00	497 00	200 00	2,250 00				
2,000 00	856 00	488 00	198 00	1,970 00				
1,993 00	838 00	471 00	187 00	1,880 00				
1,618 00	835 00	462 00	186 00	1,563 00				
1,587 00	827 00	451 00	179 00	1,200 00				
1,537 00	800 00	450 00	177 00	642 00				
1,513 00	785 00	445 00	177 00	470 00				
1,436 00	783 00	414 00	176 00					
1,405 00	765 00	411 00	166 00					
1,404 00	743 00	381 00	161 00					
1,305 00	737 00	368 00	159 99					
1,287 00	713 00	365 00	149 00					
1,287 00	708 00	364 00	144 00					
1,283 00	703 00	355 00	131 00					
1,200 00	692 00	316 00	115 00					
1,194 00	685 00	306 00	112 00					
1,194 00	680 00	305 00	110 00					
1,193 00	677 00	302 00	108 00					
1,185 00	666 00	300 00	108 00					
1,159 00	653 00	295 00	100 00					
1,150 00	649 00	288 00	100 00					
1,123 00	633 00	287 00	92 00					
1,119 00	628 00	279 00	85 00					
1,113 00	605 00	279 00	81 00					
1,112 00	601 00	267 00	76 00					
1,088 00	599 00	262 00	67 00					
1,084 00	598 00	256 00	34 00					
1,037 00	593 00	250 00	23 00					
1,029 00	590 00	250 00	17 00					

SCHEDULE OF AD DAMNUMS, SHOWING FINDINGS.

CONTRACT — JURY WAIVED SESSIONS.

Amount Claimed in Writ.

\$3,000 or Less.	\$3,000 to \$5,000.	Over \$10,000.	
FINDINGS.			
\$2,914 00	\$448 00	\$2,705 00	\$21,645 00
1,530 00	406 00	2,682 00	20,897 00
1,507 00	389 00	1,880 00	20,897 00
1,235 00	329 00	1,811 00	
709 00	325 00	1,290 00	
689 00	304 00	956 00	
576 00	299 00		
565 00	101 00		

SUFFOLK COUNTY — *Continued.*
 SCHEDULE OF AD DAMNUMS, SHOWING VERDICTS.
 TORT (INCLUDING MOTOR VEHICLE CASES) — JURY SESSIONS.

Amount Claimed in Writ.				
\$3,000 or Less.	\$3,000 to \$5,000.	\$5,000 to \$10,000.	Over \$10,000.	
VERDICTS.				
\$1,500 00	\$5,000 00	\$500 00	\$5,000 00	\$42,083 00
1,200 00	3,750 00	500 00	5,000 00	18,000 00
1,100 00	3,500 00	493 00	4,500 00	16,000 00
1,100 00	3,375 00	450 00	4,500 00	14,000 00
1,000 00	3,225 00	416 00	4,500 00	12,500 00
1,000 00	3,000 00	416 00	4,250 00	12,500 00
950 00	3,000 00	400 00	4,000 00	12,000 00
750 00	3,000 00	400 00	4,000 00	12,000 00
750 00	3,000 00	400 00	4,000 00	12,000 00
750 00	3,000 00	350 00	3,000 00	10,000 00
700 00	3,000 00	350 00	3,000 00	8,500 00
670 00	2,630 00	350 00	2,955 00	8,000 00
600 00	2,500 00	350 00	2,500 00	8,000 00
500 00	2,500 00	350 00	2,500 00	8,000 00
500 00	2,500 00	345 00	2,500 00	7,500 00
450 00	2,000 00	340 00	2,500 00	7,500 00
400 00	2,000 00	300 00	2,394 00	7,500 00
390 00	2,000 00	300 00	2,000 00	7,000 00
375 00	2,000 00	300 00	2,000 00	6,000 00
350 00	2,000 00	300 00	1,500 00	5,880 00
350 00	1,800 00	250 00	1,500 00	5,500 00
350 00	1,650 00	250 00	1,500 00	5,500 00
350 00	1,585 00	200 00	1,500 00	5,300 00
330 00	1,500 00	200 00	1,400 00	5,000 00
312 00	1,500 00	200 00	1,000 00	5,000 00
300 00	1,500 00	200 00	1,000 00	5,000 00
292 00	1,250 00	200 00	1,000 00	5,000 00
250 00	1,220 00	200 00	1,000 00	4,750 00
250 00	1,200 00	200 00	1,000 00	4,500 00
250 00	1,100 00	200 00	1,000 00	4,500 00
250 00	1,000 00	150 00	900 00	4,070 00
250 00	1,000 00	150 00	850 00	4,000 00
189 00	963 00	150 00	800 00	3,500 00
150 00	800 00	150 00	800 00	3,497 00
150 00	800 00	150 00	800 00	3,446 00
150 00	800 00	150 00	650 00	3,000 00
124 00	750 00	150 00	650 00	3,000 00
120 00	750 00	125 00	625 00	2,874 00
110 00	750 00	100 00	600 00	2,500 00
100 00	700 00	100 00	500 00	2,000 00
100 00	617 00	100 00	500 00	2,000 00
100 00	525 00	100 00	500 00	2,000 00
100 00	500 00	100 00	500 00	2,000 00
100 00	500 00	100 00	375 00	2,000 00
50 00	500 00	50 00	350 00	1,500 00
50 00	500 00	34 00	300 00	1,500 00
50 00	500 00	10 00	300 00	1,500 00
48 00	500 00	10 00	300 00	1,250 00
1 00			300 00	1,250 00
1 00			257 00	1,040 00
			250 00	1,000 00
			250 00	969 00
			250 00	850 00
			250 00	800 00
			230 00	750 00
			225 00	750 00
			200 00	660 00
			125 00	550 00
			125 00	500 00
			100 00	500 00
			100 00	500 00
			100 00	500 00
			75 00	500 00
			25 00	500 00
				250 00
				250 00

SUFFOLK COUNTY — *Concluded.*

SCHEDULE OF AD DAMNUMS, SHOWING FINDINGS.

TORT (INCLUDING MOTOR VEHICLE CASES) — JURY WAIVED SESSIONS.

Amount Claimed in Writ.			
\$3,000 or Less.	\$3,000 to \$5,000.	\$5,000 to \$10,000.	Over \$10,000.
FINDINGS.			
\$2,000 00	\$1,200 00	\$6,094 00	\$20,000 00
1,500 00	750 00	5,700 00	10,000 00
894 00	600 00	5,000 00	5,000 00
400 00	450 00	3,000 00	4,128 00
400 00	400 00	1,600 00	3,000 00
300 00	400 00	1,600 00	3,000 00
275 00	300 00	1,012 00	2,000 00
250 00	300 00	1,000 00	
250 00	275 00	1,000 00	
200 00	250 00	750 00	
150 00	250 00	750 00	
150 00	250 00	600 00	
100 00	225 00	550 00	
69 00	200 00	350 00	
68 00	200 00	250 00	
65 00	150 00	80 00	
25 00	100 00	35 00	
	100 00		
	100 00		

MIDDLESEX COUNTY.

TRIAL RECORD, YEAR ENDING JUNE 30, 1929.

TORT AND CONTRACT CASES — JURY AND JURY WAIVED SESSIONS.			
Jury	{ Contracts	83	
	{ Torts	466	Total 549
Jury Waived	{ Contracts	17	
	{ Torts	29	Total 46
Cases in both sessions, total			595

TORTS CLASSIFIED.			
Jury	{ Motor Vehicle Torts	343	Jury Waived { Motor Vehicle Torts 18
	{ Other Torts	123	{ Other Torts 11

TABLE OF VERDICTS AND FINDINGS.			
Contract.			
Jury	{ Plaintiff	49	Jury Waived { Plaintiff 8
	{ Defendant	20	{ Defendant 8
	{ Settled, etc.	14	{ Settled, etc. 1

MOTOR VEHICLE TORTS.			
Jury	{ Plaintiff	107	Jury Waived { Plaintiff 11
	{ Defendant	131	{ Defendant 5
	{ Settled, etc.	105	{ Settled, etc. 2

OTHER TORTS.			
Jury	{ Plaintiff	40	Jury Waived { Plaintiff 4
	{ Defendant	49	{ Defendant 4
	{ Settled, etc.	34	{ Settled, etc. 0

SETTLEMENTS, ETC.			
Jury:		Jury Waived:	
Settled	125		3
Defaults	0		0
Continued	0		0
Discontinued	7		0
Disagreements	16		0
Mistrial	3		0
Non suits	0		0
Total	153		3

MIDDLESEX COUNTY — Continued.
SCHEDULE OF AD DAMNUMS, SHOWING VERDICTS.
CONTRACT — JURY SESSIONS.

Amount Claimed in Writ.				
\$3,000 or Less.		\$3,000 to \$5,000.		\$5,000 to \$10,000.
VERDICTS.				
\$2,764 00	\$849 00	\$407 00	\$4,485 00	\$6,429 00
1,908 00	825 00	398 00	4,071 00	4,877 00
1,864 00	786 00	253 00	4,000 00	
1,700 00	686 00	226 00	3,322 00	
1,641 00	591 00	208 00	3,035 00	
1,531 00	581 00	183 00	2,584 00	
1,341 00	543 00	143 00	2,500 00	
1,305 00	542 00	143 00	2,189 00	
1,190 00	517 00	125 00		
1,149 00	508 00	108 00		
1,145 00	455 00	102 00		
1,074 00	425 00	62 00		
941 00	418 00	59 00		

SCHEDULE OF AD DAMNUMS, SHOWING FINDINGS.
CONTRACT — JURY WAIVED SESSIONS.

<i>Amount Claimed in Writ.</i>	
\$3,000 or Less.	\$3,000 to \$5,000.
FINDINGS.	
\$1,170 00	\$2,709 00
658 00	2,077 00
600 00	
574 00	
231 00	
154 00	

MIDDLESEX COUNTY — Continued.
SCHEDULE OF AD DAMNUMS, SHOWING VERDICTS.
MOTOR VEHICLE TORTS — JURY SESSIONS.

<i>Amount Claimed in Writ.</i>			
\$3,000 or Less.	\$3,000 to \$5,000.	\$5,000 to \$10,000.	Over \$10,000.
VERDICTS.			
\$2,500 00	\$2,769 00	\$7,000 00	\$23,000 00
1,354 00	2,000 00	5,466 00	12,600 00
1,000 00	1,750 00	5,000 00	12,500 00
850 00	1,537 00	3,600 00	10,500 00
750 00	1,500 00	3,500 00	7,500 00
652 00	1,467 00	3,500 00	6,500 00
633 00	1,100 00	3,100 00	5,500 00
600 00	1,000 00	3,100 00	5,500 00
575 00	850 00	2,600 00	5,285 00
535 00	750 00	2,300 00	5,000 00
450 00	550 00	2,000 00	4,000 00
450 00	550 00	2,000 00	3,374 00
400 00	500 00	2,000 00	1,500 00
350 00	500 00	1,980 00	1,500 00
350 00	500 00	1,500 00	875 00
326 00	305 00	1,500 00	300 00
281 00	250 00	1,100 00	106 00
262 00	175 00	1,000 00	
250 00	160 00	1,000 00	
207 00	150 00	752 00	
200 00	100 00	750 00	
200 00	1 00	700 00	
150 00	1 00	700 00	
150 00		175 00	
136 00		100 00	
121 00		100 00	
104 00		100 00	
100 00		100 00	
90 00		100 00	
84 00		1 00	
75 00			
56 00			
50 00			
35 00			
35 00			
25 00			
1 00			

OTHER TORTS — JURY SESSIONS.

<i>Amount Claimed in Writ.</i>			
\$1,000 to \$3,000.	\$3,000 to \$5,000.	\$5,000 to \$10,000.	Over \$10,000.
VERDICTS.			
\$1,512 00	\$3,000 00	\$7,250 00	\$5,500 00
1,000 00	2,479 00	6,100 00	5,000 00
675 00	2,000 00	5,000 00	5,000 00
550 00	1,350 00	4,991 00	4,000 00
500 00	1,000 00	1,650 00	2,927 00
350 00	1,000 00	750 00	
150 00	800 00	500 00	
135 00	700 00	500 00	
118 00	593 00	250 00	
83 00	500 00	216 00	
25 00	400 00	200 00	
	250 00		
	7 00		

MIDDLESEX COUNTY — Concluded.
SCHEDULE OF AD DAMNUMS, SHOWING FINDINGS.
MOTOR VEHICLE TORTS — JURY WAIVED SESSIONS.

<i>Amount Claimed in Writ.</i>			
\$1,000 to \$3,000.	\$3,000 to \$5,000.	\$5,000 to \$10,000.	Over \$10,000.
FINDINGS.			
\$1,500 00 633 00 418 00	\$3,000 00 1,050 00 750 00 550 00	\$35 00	\$4,000 00 3,500 00 395 00

OTHER TORTS — JURY WAIVED SESSIONS.

<i>Amount Claimed in Writ.</i>		
\$1,000 to \$3,000.	\$3,000 to \$5,000.	Over \$10,000.
FINDINGS.		
\$75 00 1 00	\$100 00	\$4,000 00

ESSEX COUNTY.

TRIAL RECORD, YEAR ENDING JUNE 30, 1929.

TORT AND CONTRACT CASES — JURY AND JURY WAIVED SESSIONS.			
<i>Jury</i>	<i>Contracts</i>	58	
<i>Jury Waived</i>	<i>Torts</i>	186	Total 244
	<i>Contracts</i>	7	
	<i>Torts</i>	20	Total 27
Cases in both sessions, total			271

TORTS CLASSIFIED.			
<i>Jury</i>	<i>Motor Vehicle Torts</i>	123	<i>Jury Waived</i> <i>Motor Vehicle Torts</i> 11
	<i>Other Torts</i>	63	<i>Other Torts</i> 9

TABLE OF VERDICTS AND FINDINGS.			
<i>Contracts.</i>			
<i>Jury</i>	<i>Plaintiff</i>	29	<i>Jury Waived</i> <i>Plaintiff</i> 5
	<i>Defendant</i>	12	<i>Defendant</i> 0
	<i>Settled, etc.</i>	17	<i>Settled, etc.</i> 2

MOTOR VEHICLE TORTS.			
<i>Jury</i>	<i>Plaintiff</i>	43	<i>Jury Waived</i> <i>Plaintiff</i> 7
	<i>Defendant</i>	66	<i>Defendant</i> 4
	<i>Settled, etc.</i>	14	<i>Settled, etc.</i> 0

OTHER TORTS.			
<i>Jury</i>	<i>Plaintiff</i>	29	<i>Jury Waived</i> <i>Plaintiff</i> 5
	<i>Defendant</i>	22	<i>Defendant</i> 4
	<i>Settled, etc.</i>	12	<i>Settled, etc.</i> 0

SETTLEMENTS, ETC.									
<i>Jury:</i>						<i>Jury Waived:</i>			
Settled					37				2
Continued					1				0
Mistrial					1				0
Disagreements					2				0
Reported to Auditor					2				0
Totals					43				2

ESSEX COUNTY — Continued.
SCHEDULE OF AD DAMNUMS, SHOWING VERDICTS.
CONTRACT — JURY SESSIONS.

Amount Claimed in Writ.				
\$3,000 or Less.		\$3,000 to \$5,000.		Over \$10,000.
VERDICTS.				
\$1,644 00	\$565 00	\$227 00	\$2,840 00	\$18,587 00
1,338 00	496 00	191 00	2,500 00	16,812 00
1,330 00	485 00	180 00	100 00	8,430 00
1,160 00	455 00	172 00		
961 00	421 00	117 00		
899 00	415 00	50 00		
592 00	361 00	35 00		
575 00	330 00			

SCHEDULE OF AD DAMNUMS, SHOWING FINDINGS.
CONTRACT — JURY WAIVED SESSIONS.

<i>Amount Claimed in Writ.</i>	
\$3,000 or Less.	\$5,000 to \$10,000.
FINDINGS.	
\$1,735 00	\$659 00
199 00	
172 00	
15 00	

SCHEDULE OF AD DAMNUMS, SHOWING VERDICTS.
MOTOR VEHICLE TORTS — JURY SESSIONS.

Amount Claimed in Writ.				
\$3,000 or Less.		\$3,000 to \$5,000.	\$5,000 to \$10,000.	Over \$10,000.
VERDICTS.				
\$1,012 00	\$325 00	\$2,500 00	\$5,000 00	\$5,000 00
1,000 00	300 00	1,450 00	3,000 00	3,000 00
1,000 00	300 00	750 00	2,600 00	1,506 00
800 00	297 00	600 00	2,500 00	1,000 00
750 00	185 00	500 00	1,900 00	250 00
500 00	150 00	300 00	1,800 00	
405 00	125 00	250 00	1,500 00	
400 00	115 00	100 00	1,000 00	
375 00	1 00	35 00	188 00	
350 00	1 00			

SCHEDULE OF AD DAMNUMS, SHOWING FINDINGS.
MOTOR VEHICLE TORTS — JURY WAIVED SESSIONS.

Amount Claimed in Writ.				
\$3,000 or Less.		\$3,000 to \$5,000.	\$5,000 to \$10,000.	Over \$10,000.
FINDINGS.				
\$1,000 00	\$134 00	\$750 00	\$227 00	\$500 00
949 00	100 00			

ESSEX COUNTY — Concluded.
SCHEDULE OF AD DAMNUMS, SHOWING VERDICTS.
OTHER TORTS — JURY SESSIONS.

<i>Amount Claimed in Writ.</i>			
\$3,000 or Less.	\$3,000 to \$5,000.	\$5,000 to \$10,000.	Over \$10,000.
VERDICTS.			
\$1,800 00	\$2,250 00	\$10,000 00	\$13,500 00
800 00	1,154 00	1,200 00	2,250 00
590 00	800 00	1,035 00	1,750 00
500 00	400 00	500 00	
400 00	185 00	200 00	
100 00	125 00	150 00	
75 00	70 00	10 00	
51 00			
50 00			
27 00			
1 00			
1 00			

SCHEDULE OF AD DAMNUMS, SHOWING FINDINGS.
OTHER TORTS — JURY WAIVED SESSIONS.

<i>Amount Claimed in Writ.</i>	
\$3,000 or Less.	\$3,000 to \$5,000.
FINDINGS.	
\$750 00	\$100 00
750 00	
27 00	
27 00	

WORCESTER COUNTY.

TRIAL RECORD, YEAR ENDING JUNE 30, 1929.

TORT AND CONTRACT CASES — JURY AND JURY WAIVED SESSIONS.			
<i>Jury</i>	<i>(Contracts</i>	47	
	<i>Torts</i>	227	Total 274
<i>Jury Waived</i>	<i>(Contracts</i>	23	
	<i>Torts</i>	15	Total 38
Cases in both sessions, total 312			

TORTS CLASSIFIED.			
<i>Jury</i>	<i>(Motor Vehicle Torts</i>	183	
	<i>Other Torts</i>	44	<i>Jury Waived</i> {Motor Vehicle Torts 13
			{Other Torts 2

TABLE OF VERDICTS AND FINDINGS.			
<i>Contracts.</i>			
<i>Jury</i>	<i>(Plaintiff</i>	27	
	<i>Defendant</i>	8	<i>Jury Waived</i> {Plaintiff 14
	<i>Settled, etc.</i>	12	{Defendant 8
			{Settled, etc. 1

MOTOR VEHICLE TORTS.			
<i>Jury</i>	<i>(Plaintiff</i>	89	
	<i>Defendant</i>	36	<i>Jury Waived</i> {Plaintiff 9
	<i>Settled, etc.</i>	58	{Defendant 3
			{Settled, etc. 1

OTHER TORTS.			
<i>Jury</i>	<i>(Plaintiff</i>	14	
	<i>Defendant</i>	18	<i>Jury Waived</i> {Plaintiff 0
	<i>Settled, etc.</i>	12	{Defendant 0
			{Settled, etc. 2

WORCESTER COUNTY — *Continued.*TRIAL RECORD, YEAR ENDING JUNE 30, 1929 — *Continued.*

SETTLEMENTS, ETC.			
<i>Jury:</i>		<i>Jury Waived:</i>	
Settled	77		2
Nonsuits	1		0
Mistrials	2		0
Disagreements	1		0
Report to Auditor	1		0
Total	82		2

SCHEDULE OF AD DAMNUMS, SHOWING VERDICTS.

CONTRACT — JURY SESSIONS.

Amount Claimed in Writ.

\$3,000 or Less.	\$3,000 to \$5,000.	\$5,000 to \$10,000.	Over \$10,000.
VERDICTS.			
\$1,149 00	\$196 00	\$1,725 00	\$10,000 00
875 00	114 00	375 00	7,000 00
681 00	109 00		433 00
608 00	100 00		
515 00	76 00		
397 00	69 00		
341 00	60 00		
258 00	10 00		
250 00	1 00		

MOTOR VEHICLE TORTS — JURY SESSIONS.

Amount Claimed in Writ.

\$3,000 or Less.	\$3,000 to \$5,000.	\$5,000 to \$10,000.	Over \$10,000.
VERDICTS.			
\$1,324 00	\$4,000 00	\$6,500 00	\$20,000 00
1,000 00	2,573 00	5,413 00	15,000 00
800 00	2,500 00	4,352 00	15,000 00
700 00	2,500 00	4,352 00	15,000 00
600 00	2,250 00	3,781 00	12,000 00
446 00	2,000 00	3,500 00	5,237 00
426 00	2,000 00	3,000 00	5,000 00
426 00	1,670 00	3,000 00	1,383 00
400 00	1,500 00	2,250 00	1,100 00
350 00	1,500 00	2,250 00	1,050 00
325 00	1,220 00	1,093 00	75 00
275 00	1,000 00	1,050 00	75 00
250 00	1,000 00	1,005 00	
225 00	825 00	1,005 00	
200 00	500 00	900 00	
200 00	500 00	900 00	
197 00	400 00	850 00	
175 00	340 00	850 00	
160 00	300 00	750 00	
156 00	250 00	650 00	
154 00	160 00	650 00	
100 00	160 00	350 00	
100 00	63 00	250 00	
50 00		200 00	
35 00		50 00	
25 00		50 00	
25 00			
25 00			

WORCESTER COUNTY — Concluded.
SCHEDULE OF AD DAMNUMS, SHOWING VERDICTS.
OTHER TORTS — JURY SESSIONS.

<i>Amount Claimed in Writ.</i>			
\$3,000 or Less.	\$3,000 to \$5,000.	\$5,000 to \$10,000.	Over \$10,000.
VERDICTS.			
\$550 00	\$1,000 00	\$1,800 00	\$5,000 00
150 00	364 00		5,000 00
130 00	350 00		2,504 00
	100 00		
	100 00		
	75 00		
	1 00		

SCHEDULE OF AD DAMNUMS, SHOWING FINDINGS.
MOTOR VEHICLE TORTS — JURY WAIVED SESSIONS.

<i>Amount Claimed in Writ.</i>		
\$3,000 or Less.	\$3,000 to \$5,000.	Over \$10,000.
FINDINGS.		
\$265 00	\$2,500 00	\$4,162 00
262 00	250 00	1,380 00
222 00		2,504 00
111 00		

CONTRACT — JURY WAIVED SESSIONS.

<i>Amount Claimed in Writ.</i>		
\$3,000 or Less.	\$3,000 to \$5,000.	
FINDINGS.		
\$1,551 00	\$362 00	\$3,455 00
893 00	362 00	2,087 00
775 00	341 00	1,727 00
563 00	236 00	
384 00	140 00	
362 00		

HAMPDEN COUNTY.

TRIAL RECORD, YEAR ENDING JUNE 30, 1929.

TORT AND CONTRACT CASES — JURY AND JURY WAIVED SESSIONS.					
<i>Jury</i>	(Contracts	.	.	23	
	(Torts	.	.	160	Total 183
<i>Jury Waived</i>	(Contracts	.	.	7	
	(Torts	.	.	7	Total 14
Cases in both sessions, total					197

TORTS CLASSIFIED.					
<i>Jury</i>	(Motor Vehicle Torts	.	.	127	<i>Jury Waived</i> (Motor Vehicle Torts 3
	(Other Torts	.	.	33	(Other Torts 4

HAMPDEN COUNTY — Continued.
TRIAL RECORD, YEAR ENDING JUNE 30, 1929 — Continued.

TABLE OF VERDICTS AND FINDINGS.

TABLE OF CASES AND FINDINGS.						
Contracts.						
Jury	Plaintiff	9	Jury Waived	Plaintiff	5	2
	Defendant	11		Defendant	2	
	Settled, etc.	3		Settled, etc.	0	
MOTOR VEHICLE TORTS.						
Jury	Plaintiff	65	Jury Waived	Plaintiff	2	1
	Defendant	34		Defendant	1	
	Settled, etc.	28		Settled, etc.	0	
OTHER TORTS.						
Jury	Plaintiff	6	Jury Waived	Plaintiff	3	1
	Defendant	17		Defendant	1	
	Settled, etc.	10		Settled, etc.	0	
SETTLEMENTS, ETC.						
Jury:	Settled	38	Jury Waived:	. . . . .	None	None
	Discontinued	2		. . . . .	None	None
	Disagreements	1		. . . . .	None	None

SCHEDULE OF AD DAMNUMS, SHOWING VERDICTS.

CONTRACTS — JURY SESSIONS.

Amount Claimed in Writ.

\$3,000 or Less.		\$3,000 to \$5,000.
VERDICTS.		
\$1,605 00	\$371 00	\$3,543 00
1,031 00	350 00	
752 00	124 00	
613 00	100 00	

SCHEDULE OF AD DAMNUMS, SHOWING FINDINGS.

CONTRACTS — JURY WAIVED SESSIONS.

Amount Claimed in Writ.

\$3,000 or Less.	\$3,000 to \$5,000.	\$5,000 to \$10,000.
FINDINGS.		
\$463 00	\$1,534 00	\$4,400 00
400 00	100 00	

MOTOR VEHICLE TORTS — JURY WAIVED SESSIONS.

Amount Claimed in Writ.

\$3,000 or Less.	\$3,000 to \$5,000.
FINDINGS.	
\$75 00	\$900 00

HAMPDEN COUNTY — Concluded.
SCHEDULE OF AD DAMNUMS, SHOWING FINDINGS.
OTHER TORTS — JURY WAIVED SESSIONS.

<i>Amount Claimed in Writ.</i>	
\$3,000 or Less.	\$3,000 to \$5,000.
FINDINGS.	
\$500 00	\$750 00 350 00

SCHEDULE OF AD DAMNUMS, SHOWING VERDICTS.
OTHER TORTS — JURY SESSIONS.

<i>Amount Claimed in Writ.</i>			
\$3,000 or Less.	\$3,000 to \$5,000.	\$5,000 to \$10,000.	Over \$10,000.
VERDICTS.			
\$57 00	\$700 00	\$8,500 00 5,000 00 2,200 00	\$5,000 00

MOTOR VEHICLE TORTS — JURY SESSIONS.

<i>Amount Claimed in Writ.</i>			
\$3,000 or Less.	\$3,000 to \$5,000.	\$5,000 to \$10,000.	Over \$10,000.
VERDICTS.			
\$1,000 00	\$3,233 00	\$8,000 00	\$11,600 00
1,000 00	2,500 00	7,000 00	7,967 00
1,000 00	2,000 00	5,500 00	7,100 00
900 00	1,800 00	5,000 00	7,000 00
750 00	1,600 00	4,500 00	6,500 00
500 00	1,500 00	4,000 00	5,208 00
450 00	1,384 00	3,300 00	3,000 00
350 00	1,277 00	3,200 00	2,500 00
350 00	1,000 00	3,000 00	2,000 00
300 00	1,000 00	2,625 00	
300 00	950 00	2,500 00	
300 00	850 00	2,000 00	
254 00	802 00	1,800 00	
235 00	700 00		
161 00	500 00		
150 00	500 00		
125 00	397 00		
100 00	375 00		
57 00	300 00		
55 00	104 00		
24 00	77 00		

TRIAL RECORD, YEAR ENDING JUNE 30, 1929.

Cases in both sessions, total	93
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<i>Jury</i>	{Motor Vehicle Torts	55	<i>Jury Waived</i>	{Motor Vehicle Torts	6
	{Other Torts	13		{Other Torts	1

<i>Jury</i>	{	Plaintiff	12	<i>Jury Waived</i>	{	Plaintiff	3
		Defendant	0			Defendant	3
		Settled, etc.	0			Settled, etc.	0

Jury Verdicts				Jury Waived			
Jury	Plaintiff	.	14	Jury Waived	Plaintiff	.	6
	Defendant	.	32		Defendant	.	0
	Settled, etc.	.	9		Settled, etc.	.	0

<i>Jury</i>	{	Plaintiff	4		<i>Jury Waived</i>	{	Plaintiff	*1
		Defendant	9				Defendant	0
		Settled, etc.	0				Settled, etc.	0

<i>Jury:</i>					
Disagreements	9

\$420	00
420	00
295	00
100	00

\$4,242 00

BRISTOL COUNTY — *Concluded.*
 SCHEDULE OF AD DAMNUMS, SHOWING VERDICTS.
 MOTOR VEHICLE TORTS — JURY SESSIONS.

<i>Amount Claimed in Writ.</i>			
\$3,000 or Less.	\$3,000 to \$5,000.	\$5,000 to \$10,000.	Over \$10,000.
VERDICTS.			
\$500 00	\$200 00	\$5,000 00	\$6,500 00
350 00	85 00	2,000 00	6,000 00
320 00	50 00		
250 00	50 00		
131 00	50 00		

SCHEDULE OF AD DAMNUMS, SHOWING FINDINGS.
 MOTOR VEHICLE TORTS — JURY WAIVED SESSIONS.

<i>Amount Claimed in Writ.</i>		
\$3,000 or Less.	\$3,000 to \$5,000.	\$5,000 to \$10,000.
FINDINGS.		
\$900 00	\$1,850 00	\$2,000 00
340 00	1,600 00	
	1,000 00	

SCHEDULE OF AD DAMNUMS, SHOWING VERDICTS.
 OTHER TORTS — JURY SESSIONS.

<i>Amount Claimed in Writ.</i>	
\$3,000 or Less.	Over \$10,000.
VERDICTS.	
\$175 00	\$9,000 00
	7,500 00
	350 00

OTHER TORTS — JURY WAIVED SESSIONS.

<i>Amount Claimed in Writ.</i>
\$5,000 to \$10,000.
VERDICT.
\$1,200 00

NORFOLK COUNTY.

TRIAL RECORD, YEAR ENDING JUNE 30, 1929.

TORT AND CONTRACT CASES—JURY AND JURY WAIVED SESSIONS.

Jury	Contracts	15	Total	95
	Torts	80		
Jury Waived	Contracts	8	Total	19
	Torts	11		
Cases in both sessions, total				114

TORTS CLASSIFIED.

Jury	Motor Vehicle Torts	72	Jury Waived	Motor Vehicle Torts	11
	Other Torts	8		Other Torts	0

TABLE OF VERDICTS AND FINDINGS.

Contract.

Jury	Plaintiff	9	Jury Waived	Plaintiff	7
	Defendant	2		Defendant	1
	Settled, etc.	4		Settled, etc.	0

MOTOR VEHICLE TORTS.

Jury	Plaintiff	42	Jury Waived	Plaintiff	8
	Defendant	26		Defendant	3
	Settled, etc.	4		Settled, etc.	0

OTHER TORTS.

Jury	Plaintiff	3	Jury Waived	Plaintiff	None
	Defendant	5		Defendant	
	Settled, etc.	0		Settled, etc.	

SETTLEMENTS, ETC.

Jury:	Settled	1	Jury Waived:	None
	Default	1		
	Mistrials	4		
	Disagreements	2		
Total		8		

SCHEDULE OF AD DAMNUMS, SHOWING VERDICTS.

MOTOR VEHICLE TORTS—JURY SESSIONS.

Amount Claimed in Writ.

\$3,000 or Less.	\$3,000 to \$5,000.	\$5,000 to \$10,000.	Over \$10,000.
VERDICTS.			
\$900 00	\$4,000 00	\$9,000 00	\$4,100 00
700 00	2,387 00	5,000 00	4,000 00
600 00	1,500 00	2,500 00	4,000 00
500 00	1,000 00	1,800 00	3,000 00
500 00	850 00	1,800 00	1,800 00
400 00	300 00	1,500 00	750 00
399 00	150 00	1,500 00	
250 00	150 00	1,250 00	
250 00		1,000 00	
218 00		500 00	
176 00		250 00	
150 00		200 00	
150 00			
150 00			
120 00			
50 00			

NORFOLK COUNTY — *Concluded.*
 SCHEDULE OF AD DAMNUMS, SHOWING VERDICTS.
 OTHER TORTS — JURY SESSIONS.

<i>Amount Claimed in Writ.</i>	
\$3,000 or Less.	\$5,000 to \$10,000.
VERDICTS.	
\$1,578 00 150 00	\$2,500 00

CONTRACT — JURY SESSIONS.

Amount Claimed in Writ.		
\$3,000 or Less.		\$3,000 to \$5,000.
VERDICTS.		
\$687 00 684 00 555 00 329 00	\$254 00 242 00 197 00	\$4,500 00 3,985 00

SCHEDULE OF AD DAMNUMS, SHOWING FINDINGS.

CONTRACT — JURY WAIVED SESSIONS.

<i>Amount Claimed in Writ.</i>		
\$3,000 or Less.	\$3,000 to \$5,000.	\$5,000 to \$10,000.
FINDINGS.		
\$1,588 00 670 00 121 00 41 00	\$2,175 00 1,500 00	\$5,000 00

MOTOR VEHICLE TORTS — JURY WAIVED SESSIONS.

<i>Amount Claimed in Writ.</i>			
\$3,000 or Less.	\$3,000 to \$5,000.	\$5,000 to \$10,000.	Over \$10,000.
FINDINGS.			
\$740 00 300 00 100 00	\$25 00 1 00	\$1,000 00 750 00	\$2,000 00

TRIAL RECORD, YEAR ENDING JUNE 30, 1929.

<i>Jury</i> (Contracts	16		
(Torts	60	Total	76
<i>Jury Waived</i> (Contracts	2		
(Torts	2	Total	4
Cases in both sessions, total			80

<div style="text-align: center;"> PORTS DISTINGUISHED. </div>									
Jury	{	Motor Vehicle Torts	37	Jury Waived	{	Motor Vehicle Torts	1		
		Other Torts	23			Other Torts	1		

		Contracts.			
Jury	Plaintiff	9	Jury Waived	Plaintiff	2
	Defendant	6		Defendant	0
	Settled, etc.	1		Settled, etc.	0

MOTOR VEHICLE TORTS.									
Jury	Plaintiff	.	.	19	Jury Waived	Plaintiff	.	.	1
	Defendant	.	.	7		Defendant	.	.	0
	Settled, etc.	.	.	11		Settled, etc.	.	.	0

OTHER FORS.		Jury Waived	
Plaintiff	5	Plaintiff	0
Defendant	5	Defendant	1
Settled, etc.	13	Settled, etc.	0

<i>Jury:</i>		<i>Jury Waived:</i>	
Settled	24		None
Disagreements	0		None
Discontinued	1		None

CONTRACT—JURY SESSIONS.

VERDICTS.			
\$616 00	\$272 00	\$202 00	\$300 00
578 00	199 00		
321 00	150 00		
315 00			

CONTRACT WITHOUT JURY SESSIONS.

\$1,000 to \$3,000.
FINDINGS.
\$731 00
98 00

PLYMOUTH COUNTY — *Concluded.*
 SCHEDULE OF AD DAMNUMS, SHOWING VERDICTS.
 MOTOR VEHICLE TORTS — JURY SESSIONS.

<i>Amount Claimed in Writ.</i>			
\$3,000 or Less.	\$3,000 to \$5,000.	\$5,000 to \$10,000.	Over \$10,000.
VERDICTS.			
\$925 00	\$1,000 00	\$6,500 00	\$20,000 00
540 00	1,000 00	4,650 00	20,000 00
325 00	350 00	4,650 00	20,000 00
300 00		2,000 00	10,500 00
275 00			7,000 00
			3,000 00
			1,850 00

SCHEDULE OF AD DAMNUMS, SHOWING FINDINGS.
 MOTOR VEHICLE TORTS — JURY WAIVED.

<i>Amount Claimed in Writ.</i>	
\$3,000 to \$5,000.	
FINDING.	
\$1,000 00	

SCHEDULE OF AD DAMNUMS, SHOWING VERDICTS.
 OTHER TORTS — JURY SESSIONS.

<i>Amount Claimed in Writ.</i>			
\$3,000 or Less.	\$3,000 to \$5,000.	\$5,000 to \$10,000.	Over \$10,000.
VERDICTS.			
\$128 00	\$1,200 00	\$1,000 00	\$7,500 00
			4,250 00

OTHER TORTS — JURY WAIVED SESSIONS.

None.

BERKSHIRE COUNTY.
 TRIAL RECORD, YEAR ENDING JUNE 30, 1929.

TORT AND CONTRACT CASES — JURY AND JURY WAIVED SESSIONS.				
Jury	Contracts	.	.	8
	Torts	.	.	34
Jury Waived	Contracts	.	.	3
	Torts	.	.	2
Total				42
Total				5
Cases in both sessions, total				47
TORTS DISTINGUISHED.				
Jury	Motor Vehicle Torts	.	.	30
	Other Torts	.	.	4
Jury Waived	Motor Vehicle Torts	.	.	1
	Other Torts	.	.	1

BERKSHIRE COUNTY — Continued.
TRIAL RECORD, YEAR ENDING JUNE 30, 1929 — Continued.

TABLE OF VERDICTS AND FINDINGS.
Contracts.

Jury	Plaintiff	3	Jury Waived	Plaintiff	3
	Defendant	1		Defendant	0
	Settled, etc.	4		Settled, etc.	0

MOTOR VEHICLE TORTS.

Jury	Plaintiff	17	Jury Waived	Plaintiff	1
	Defendant	11		Defendant	0
	Settled, etc.	2		Settled, etc.	0

OTHER TORTS.

Jury	Plaintiff	2	Jury Waived	Plaintiff	1
	Defendant	2		Defendant	0
	Settled, etc.	0		Settled, etc.	0

SETTLEMENTS, ETC.

Jury:			Jury Waived:		
Settled	6				0

SCHEDULE OF AD DAMNUMS, SHOWING VERDICTS.
MOTOR VEHICLE TORTS — JURY SESSIONS.

Amount Claimed in Writ.

\$3,000 or Less.	\$3,000 to \$5,000.	\$5,000 to \$10,000.	Over \$10,000.
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VERDICTS.

\$1,500 00	\$1,200 00	\$1,200 00	\$13,500 00
1,455 00	1,000 00		
871 00	685 00		
675 00	650 00		
500 00	500 00		
408 00			
384 00			
221 00			
221 00			
175 00			

OTHER TORTS — JURY SESSIONS.

Amount Claimed in Writ.

\$3,000 or Less.	\$3,000 to \$5,000.
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VERDICTS.

\$3,000 00	\$1,000 00
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CONTRACTS — JURY SESSIONS.

Amount Claimed in Writ.

\$3,000 or Less.	Over \$10,000.
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VERDICTS.

\$493 00 300 00	\$10,980 00
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BERKSHIRE COUNTY — Concluded.
SCHEDULE OF AD DAMNUMS, SHOWING FINDINGS.
MOTOR VEHICLE TORTS — JURY WAIVED SESSIONS.

<i>Amount Claimed in Writ.</i>	
\$3,000 or Less.	
FINDING.	
\$35 00	
OTHER TORTS — JURY WAIVED SESSIONS.	
<i>Amount Claimed in Writ.</i>	
Over \$10,000.	
FINDING.	
\$2,500 00	
CONTRACTS — JURY WAIVED SESSIONS.	
<i>Amount Claimed in Writ.</i>	
\$3,000 to \$5,000.	\$5,000 to \$10,000.
FINDINGS.	
\$5,000 00 2,130 00	\$3,133 00

HAMPSHIRE COUNTY.
TRIAL RECORD, YEAR ENDING JUNE 30, 1929.

TORT AND CONTRACT CASES — JURY AND JURY WAIVED SESSIONS.				
Jury	{Contracts	10	Total	41
	{Torts	31		
Cases in both sessions, total 41				
TORTS CLASSIFIED.				
Jury	{Motor Vehicle Torts	24		
	{Other Torts	7		
TABLE OF VERDICTS AND FINDINGS.				
Contracts.				
Jury	{Plaintiff	4		
	{Defendant	6		
	{Settled, etc.	0		
MOTOR VEHICLE TORTS.				
Jury	{Plaintiff	7		
	{Defendant	7		
	{Settled, etc.	10		
OTHER TORTS.				
Jury	{Plaintiff	3		
	{Defendant	3		
	{Settled, etc.	1		
SETTLEMENTS, ETC.				
Jury:	Settled	9		
	Disagreement	1		
	Taken from Jury	1		

HAMPSHIRE COUNTY — Concluded.
SCHEDULE OF AD DAMNUMS, SHOWING VERDICTS.
CONTRACT — JURY SESSIONS.

Amount Claimed in Writ.		
\$3,000 or Less.		\$5,000 to \$10,000.
VERDICTS.		
\$678 00 85 00 52 00		\$5,138 00
MOTOR VEHICLE TORTS.		
Amount Claimed in Writ.		
\$3,000 or Less.	\$3,000 to \$5,000.	Over \$10,000.
\$395 00 300 00 300 00 200 00	\$4,534 00 3,950 00	\$3,690 00
OTHER TORTS.		
Amount Claimed in Writ.		
\$3,000 or Less.	\$3,000 to \$5,000.	\$5,000 to \$10,000.
\$100 00	\$200 00	\$3,342 00

FRANKLIN COUNTY.

TRIAL RECORD, YEAR ENDING JUNE 30, 1929.

TORT AND CONTRACT CASES — JURY AND JURY WAIVED SESSIONS.			
Jury	Contracts	5	
	Torts	21	Total 26
Jury Waived	Torts	1	
	Contracts	4	Total 5
Cases in both sessions, total 31			
TORTS CLASSIFIED.			
Jury	Motor Vehicle Torts	20	
	Other Torts	1	
Jury Waived	Motor Vehicle Torts	1	
	Other Torts	0	
TABLE OF VERDICTS AND FINDINGS.			
Contract.			
Jury	Plaintiff	2	Plaintiff 4
	Defendant	2	Jury Waived Defendant 0
	Settled, etc.	1	Settled, etc. 0
MOTOR VEHICLE TORTS.			
Jury	Plaintiff	9	Plaintiff 1
	Defendant	9	Jury Waived Defendant 0
	Settled, etc.	2	Settled, etc. 0

FRANKLIN COUNTY — *Continued.*TRIAL RECORD, YEAR ENDING JUNE 30, 1929 — *Continued.*

OTHER TORTS.					
Jury	Plaintiff	1	Jury Waived	Plaintiff	0
	Defendant	0		Defendant	0
	Settled, etc.	0		Settled, etc.	0

SETTLEMENTS, ETC.	
Jury:	
No Verdicts (shown)	3

SCHEDULE OF AD DAMNUMS, SHOWING VERDICTS.

CONTRACT — JURY SESSIONS.

Amount Claimed in Writ.

\$1,000 to \$3,000.

VERDICTS.

\$466 00
421 00

SCHEDULE OF AD DAMNUMS, SHOWING FINDINGS.

CONTRACT — JURY WAIVED SESSIONS.

Amount Claimed in Writ.

\$5,000 to \$10,000.

FINDINGS.

\$1,915 00
1,915 00
1,915 00
1,915 00

SCHEDULE OF AD DAMNUMS, SHOWING VERDICTS.

MOTOR VEHICLE TORTS — JURY SESSIONS.

Amount Claimed in Writ.

\$1,000 to \$3,000.	\$3,000 to \$5,000.	\$5,000 to \$10,000.	Over \$10,000.
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VERDICTS.

\$2,750 00 750 00 750 00 159 00	\$2,500 00	\$4,922 00 3,392 00	\$3,250 00 810 00
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SCHEDULE OF AD DAMNUMS, SHOWING FINDINGS.

MOTOR VEHICLE TORTS — JURY WAIVED SESSIONS.

Amount Claimed in Writ.

\$1,000 to \$3,000.

FINDING.

\$350 00

FRANKLIN COUNTY — *Concluded.*
SCHEDULE OF AD DAMNUMS, SHOWING VERDICTS.
OTHER TORTS — JURY SESSIONS.

Amount Claimed in Writ.

Over \$10,000.

VERDICT.

\$1,000 00

BARNSTABLE COUNTY.

TRIAL RECORD, YEAR ENDING JUNE 30, 1929.

TORT AND CONTRACT CASES — JURY AND JURY WAIVED SESSIONS.			
Jury	Torts	7	
	Contracts	0	
	Total		7
Total cases in both sessions			7

		TORTS CLASSIFIED.
Jury	Motor Vehicle Torts	3
	Other Torts	4

		VERDICTS AND FINDINGS. MOTOR VEHICLE TORTS.
Jury	Plaintiff	0
	Defendant	1
	Settled, etc.	2

		OTHER TORTS.
Jury	Plaintiff	4
	Defendant	0
	Settled, etc.	0

		SETTLEMENTS, ETC.
Jury:	Settled	2

SCHEDULE OF AD DAMNUMS, SHOWING VERDICTS.
OTHER TORTS — JURY SESSIONS.

Amount Claimed in Writ.

\$1,000 to \$3,000.	\$3,000 to \$6,000.	Over \$10,000.
VERDICTS.		
\$310 00	\$625 00	\$4,000 00 10,499 00

MUNICIPAL COURT OF THE CITY OF BOSTON FOR CIVIL BUSINESS.
SUMMARY, A.D. 1928.

	Actions Entered—Total.	Actions Entered—Over \$2000 Ad Damnum.	Actions Removed to Superior Civil Court—Total.	Actions Removed to Superior Civil Court over \$2000 Ad Damnum.	DEPT. CLERK.		DEPT. COURT.		Insts. Filed.	MARKED FOR—		TRIAL LIST.				FINDINGS.		APPELLATE DIVISION.								
					Non-Appearence.	Non-Appear.	Non-Appearence.	Non-Appear.		Motion List.	Trial List.	Non-Suits.	Defaults.	Tried.	Reserved.	For Plaintiff.	For Defendant.	Requests for Report.	Reports Allowed.	Report's Dis'allowed.	Petitions to Establish.	Reports Proved.	Cases Heard.	Cases Decided.		
Contract	29,141	609	876	149	12,102	51	217	796	460	2,886						1,895	003	1,435	447	210	109	22	10	2	97	86
Tort	7,168	1,226	159	39	591	8	12	57	1,428	771						1,519	559	840	610	95	42	6	7	1	36	36
All others	1,132	32	4	2	282		2	5	41	34						326	43	282	47	21	8	3	1	1	8	6
Totals	37,441	1,866	1,039	190	13,035	59	231	858	1,929	3,691	14,131	26,109	462	4,998	3,740	1,205	2,537	1,104	326	159	31	18	2	141	128	

MUNICIPAL COURT OF THE CITY OF BOSTON FOR CIVIL BUSINESS.
SUMMARY, 1928.

	APPELLATE DIVISION—Concluded.										DEFENDANTS' JUDGMENTS.					PLAINTIFFS' JUDGMENTS.							Original Executions Issued.	Executions Renewed.
	Affirmed.	Reversed.	Modified.	Failure Re-Trial Ordered.	Partial Re-Trial Ordered.	Motions.	Appealed to Supreme Judicial Court.	Appealed to Supreme Judicial Court Perfected.	Appeals to Supreme Judicial Court—Affirmed.	Appeals to Supreme Judicial Court—Reversed.	DEFENDANTS' JUDGMENTS.					PLAINTIFFS' JUDGMENTS.								
											Entered by Non-Suit.	Entered by Trial—Open Court.	Entered by Trial—After Reservation.	Entered by Agreement.	Total Defendants' Judgments.	Entered by Default.	Entered by Trial—Open Court.	Entered by Trial—After Reservation.	Entered by Agreement.	Total Plaintiffs' Judgments.	Amount of Plaintiffs' Judgments.	Average Amount of Plaintiffs' Judgments.		
Contract	71	7	6	4	—	21	33	11	2	2	287	256	189	—	732	17,064	1,013	377	2,784	21,238	\$3,146,170 07	\$148 13	18,849	115
Tort	31	1	—	3	1	1	12	3	4	1	254	351	264	—	869	36	580	228	2,630	3,474	443,780 70	127 74	927	1
All others	5	1	—	1	—	1	3	1	1	1	10	44	7	1	61	288	172	8	20	488	13,524 03	27 71	518	1
Totals	107	9	4	7	1	23	48	14	6	2	551	651	460	—	1,662	17,388	1,765	613	5,434	25,200	\$3,603,474 80	\$142 99	20,294	115

MUNICIPAL COURT OF THE CITY OF BOSTON.
SMALL CLAIMS.
SUMMARY, 1928.

	Actions Entered.	Reported as Settled out of Court.	Amount of Piffs.	Notices Mailed to Defs.	Notices Returned, Acceptance Refused.	Notices Returned, Unable to Locate.	Notices to Piffs.	Counter-Claims or Set-offs.	Amount of Counter-Claims or Set-offs.	Defendants.	Plaintiffs.	Settled in Court before Hearing.	Hearings.	Settled in Court after Hearing.	Reserved.	Dismissals.	Transferred for Trial.	Removed to Superior Court.	Referred to Appellate Division.
Contract . . .	1,132	117	\$22,791 99	1,138	1	125	11	11	\$246 60	448	10	69	423	36	49	2	1	6	1
Tort . . .	121	6	3,247 02	121	-	2	1	1	10 00	70	1	-	59	5	1	1	1	3	1
Totals . . .	1,253	123	\$26,039 01	1,259	1	127	12	12	\$256 60	518	11	69	482	44	49	2	2	3	2

	JUDGMENTS.										Neither Party.		Counter-Claims Dismissed.	Counter-Claims Disallowed.	Piffs., Exons. Original.	Defts., Exons. Original.	Piffs., Alias Exons.
	Entered on Default.	Entered on Non-Suite.	Entered on Hearings.	Total Piffs. Judgments.	Amount Piffs. Judgments.	Total Defts. Judgments.	Amount Defts. Judgments.	Amount Defts. Judgments.	Judgments Vacated.	3	18	1	1	5	397	13	3
Contract . . .	379	23	423	686	\$13,362 95	139	-	-	3								
Tort . . .	18	4	59	53	1,156 94	28	\$13 65	\$13 65	1								
Totals . . .	397	27	482	739	\$14,519 89	167	\$13 65	\$13 65	3	19	19	1	1	5	410	13	3

CRIMINAL STATISTICS OF THE MUNICIPAL COURT OF THE CITY OF BOSTON.

(For Years ending September 30, 1925, 1926, 1927, 1928, 1929.)

DATE.	Criminal Cases Pending at Beginning of Year.	Criminal Cases Begun During Year.	Discharged, Dismissed, Placed on File before Trial.	PLEAS.		FINDINGS.			Sentences Appealed to Superior Court.
				Guilty.	Not Guilty.	Guilty.	Not Guilty.	Bound Over.	
1925 . .	48	38,235	1,726	14,978	7,924	21,459	1,443	368	1,683
1926 . .	189	39,197	1,806	14,281	7,515	20,333	1,463	454	1,665
1927 . .	100	40,734	1,561	18,069	6,252	22,690	1,254	605	1,645
1928 . .	54	47,598	5,489	23,624	6,255	28,102	1,171	673	1,986
1929 . .	216	44,680	366	22,746	6,254	26,897	1,872	577	1,687

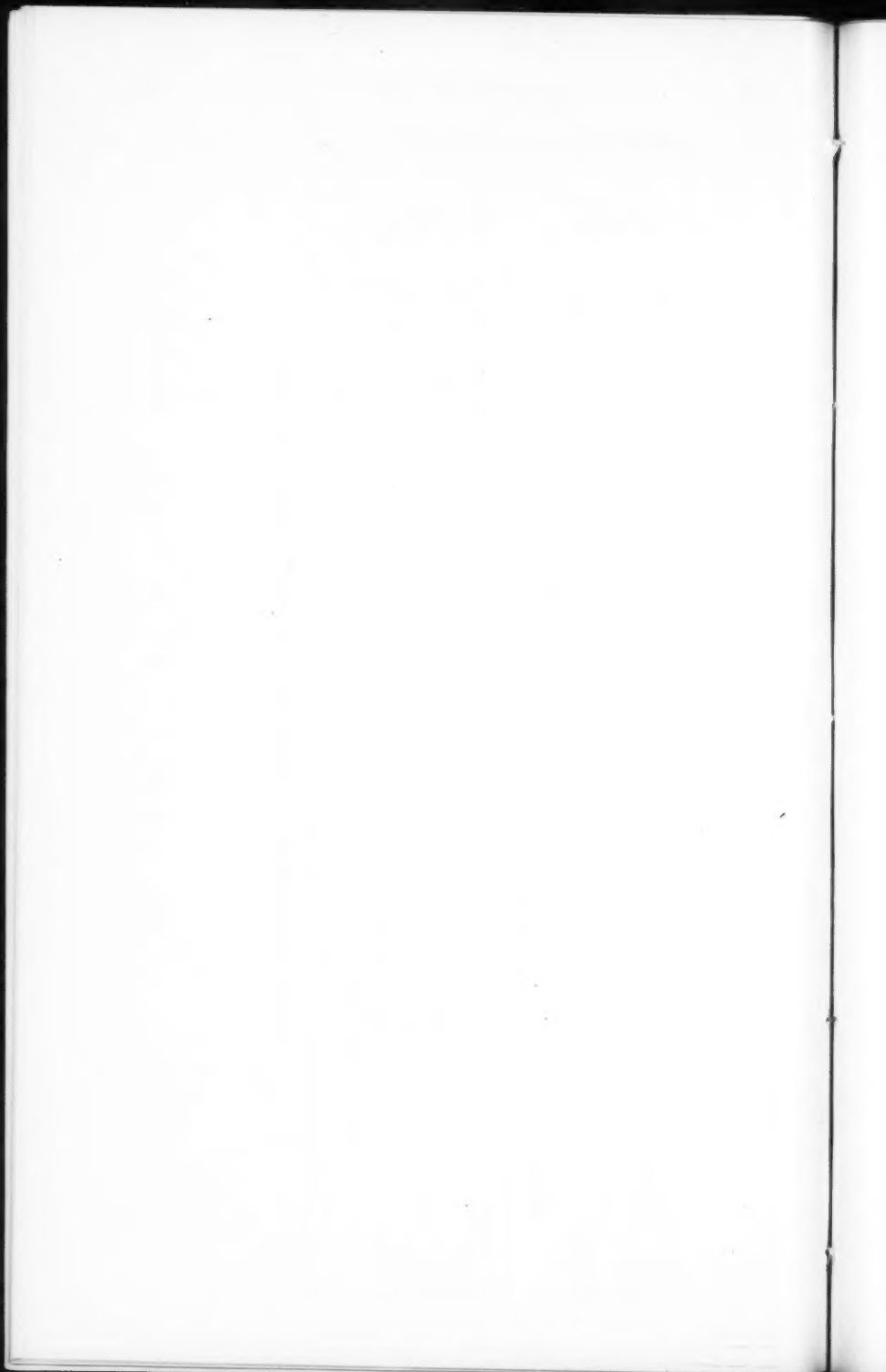
MOTOR VEHICLE OFFENCES IN THE BOSTON MUNICIPAL CRIMINAL COURT.

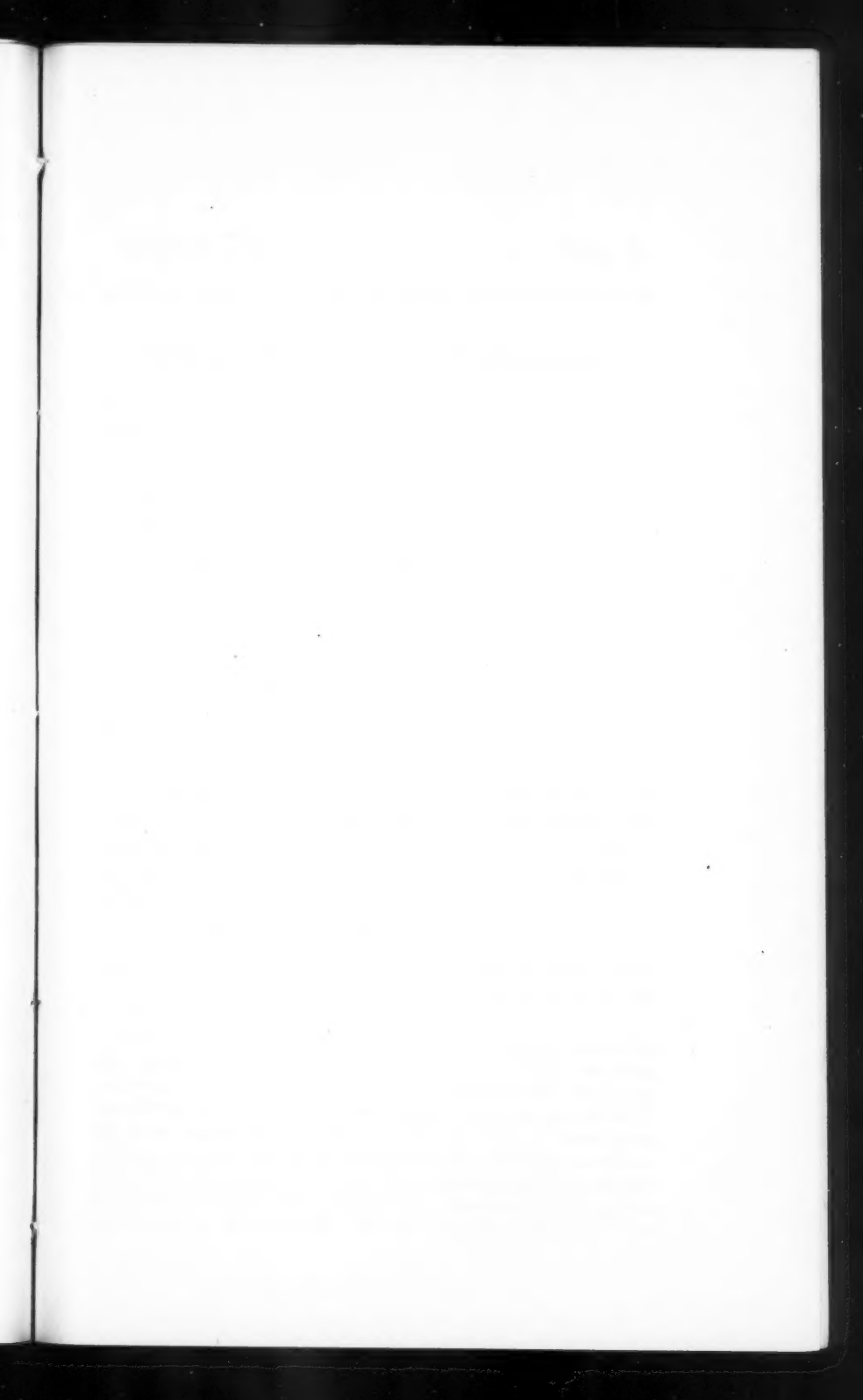
	1929.		1928.		1926.	
	Summons Issued.	Appealed.	Summons Issued.	Appealed.	Summons Issued.	Appealed.
Violation of automobile law . .	2,730	211	3,916	339	1,223	121
Violation of traffic rules . .	12,853	112	11,942	150	7,449	89

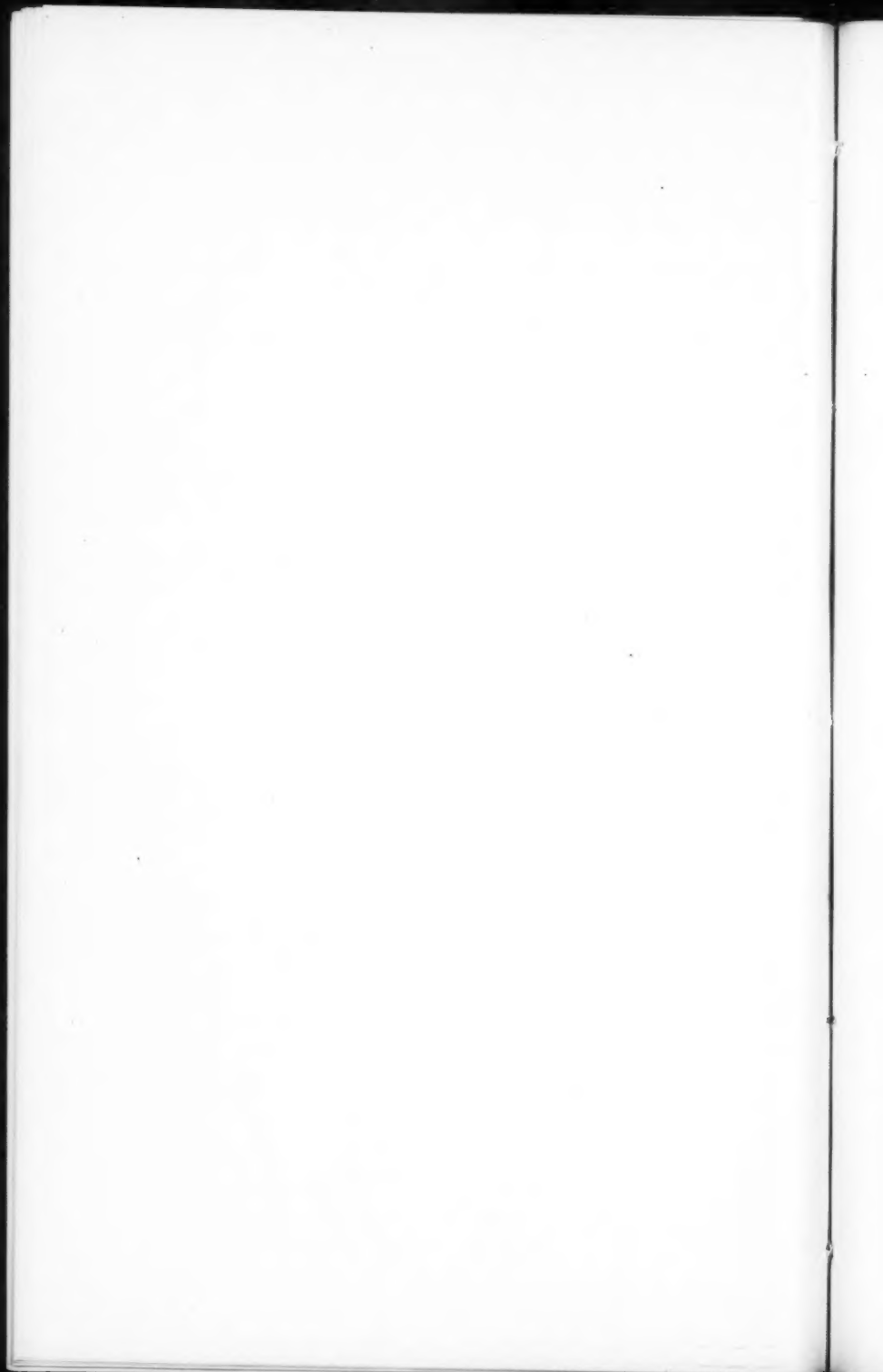
TABLE OF BUSINESS OF MIDDLESEX PROBATE COURT, 1917-1928.

PROBATE.	1917.	1918.	1919.	1920.	1921.	1922.	1923.	1924.	1925.	1926.	1927.	1928.
New cases	4,376	4,860	4,990	5,077	4,674	5,332	5,863*	5,019	5,215	5,317	5,070	5,401
Papers filed	32,361	32,483	36,404	37,006	31,517	32,506	39,411**	33,833	32,756	34,944	34,798	40,153
Decrees	-	-	-	-	-	-	-	9,465	9,772	12,989	11,592	12,127
Certificates	5,712	5,577	6,572	6,980	6,998	8,188	9,074	10,335	10,332	11,140	11,822	12,696
Cases — attested copy	-	-	-	-	-	-	-	-	-	-	-	-
Letters	4,382	4,087	4,388	4,590	4,423	4,794	4,575	4,000	4,766	4,915	4,815	23,894
Letters	4,375	4,727	5,025	5,030	4,600	5,042	5,582	4,700	5,082	5,438	5,079	4,856
Licences	405	351	764	728	681	681	752	708	784	658	676	5,215
Fees collected	-	\$5,139	\$6,306	\$7,432	\$9,600	\$10,215	\$11,748	\$11,498	\$12,930	\$12,812	\$32,618	\$33,753
Summer cases	-	-	-	-	-	-	-	-	-	-	513	730

* Includes divorce libels.												
** Includes divorce papers.												
DIVORCE.												
New cases	-	-	-	-	-	341	720	754	836	898	985	1,023
Papers filed	-	-	-	-	-	-	-	-	-	3,131	4,246	4,214
Decrees	-	-	-	-	-	219	445	583	580	681	749	791
Certificates	-	-	-	-	-	-	-	-	-	-	602	675
Cases — all others	-	-	-	-	-	-	-	-	-	177	828	950
Orders of notice	-	-	-	-	-	-	-	-	-	953	1,110	1,170
Petition — modification	-	-	-	-	-	-	-	18	13	32	47	100
Petition — contempt	-	-	-	-	-	-	-	20	32	53	91	-







SENATE No. 5

The Commonwealth of Massachusetts

SPECIAL REPORT OF THE DEPARTMENT OF PUBLIC WORKS RELATIVE TO ITS INVESTIGATION RELATING TO THE MOST APPROPRIATE METHODS OF DISPOSING OF MINOR INFRACTIONS OF THE MOTOR VEHICLE LAWS.

[Judiciary.]

STATE HOUSE, BOSTON, December 4, 1929.

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts.

In accordance with the provisions of chapter 45 of the Resolves of 1929, the Department of Public Works presents herewith its report upon its investigation relative to the most appropriate methods of disposing of minor infractions of the motor vehicle laws.

Chapter 45 of the Resolves of 1929 follows:

RESOLVE PROVIDING FOR A FURTHER STUDY AS TO THE MOST APPROPRIATE METHODS OF DISPOSING OF MINOR INFRACTIONS OF THE MOTOR VEHICLE LAWS, RULES AND REGULATIONS.

Resolved, That the department of public works is hereby authorized and directed to investigate the subject-matter of senate document numbered three hundred and seven of the current year, the recommendations on which the same was based and the general subject of the most appropriate procedure for the disposition of petty motor vehicle offences, with a view to formulating a more effective, expeditious and economical enforcement of the laws, rules and regulations relative to motor vehicles and their operation, at a minimum of inconvenience and expense to all concerned. For the purposes of this resolve, the

department may hold hearings, may require the attendance and testimony of witnesses, and shall be entitled to call upon all other state, county and municipal officials for such data and assistance as may be helpful. The department shall report to the general court by filing its recommendations with the clerk of the senate on or before the first Wednesday of December in the current year, with drafts of such legislation as may be necessary to give effect to the same.

In compliance with the requirements of said resolve the Department of Public Works has given careful consideration to the provisions of Senate Document No. 307 which contains the draft of an act to provide for prompt disposition of certain petty offences under motor vehicle laws and local traffic regulations without a criminal record.

METHOD FOLLOWED IN PREPARATION OF REPORT.

As a basis for this report and the recommendations included herein the Department has undertaken a careful investigation of conditions surrounding the enforcement of motor vehicle laws and rules and regulations throughout the Commonwealth, and in addition has studied the methods for the disposition of such matters in other jurisdictions.

In connection with the latter class of investigations the Department has paid special attention to the methods designed for the expeditious and non-criminal disposition of motor vehicle offences in the cities of Detroit, Chicago, Kansas City, Los Angeles and San Francisco. In all of these jurisdictions provision is made for the payment of non-criminal penalties for the violation of certain motor vehicle offences by means of a fines bureau. In each of the communities studied it was found that the methods used had many local advantages from the standpoint of the enforcing agencies as well as from the standpoint of the public. Successful features in these various methods have been used freely in this report, but as no one plan appeared adequate it has been found necessary to develop a plan of procedure accurately adjusted to the special problems confronting the law enforcement agencies in Massachusetts.

In the investigations and in the proposals developed therefrom the Department is indebted to the admirable studies conducted by the Judicial Council in past years, and many features of the recommendations of this body will be found in the plans set forth in this report.

On November 22, 1929, the Department held a public hearing on this matter in the State House. The hearing was well attended by representatives of various public and private bodies, and many valuable ideas were presented. These the Department has incorporated in its recommendations so far as they were consistent with the general plan developed. While those appearing at the hearing were not unanimous as to details of procedure, the opinions expressed led definitely to the conclusion that there is a widespread demand among responsible bodies for a type of procedure in close conformity to that finally determined upon in this report.

The Department, through its representatives, has held conferences upon this report with the administrative committee of the district courts, the secretary of the Judicial Council, the Police Commission of Boston, the Chief Justice of the Municipal Court of Boston, and with other prominent jurists, public officials and representatives of interested organizations. These conferences have been of great assistance in the preparation of technical details, and give assurance that the plan proposed is entirely practicable and can be made effective with no undesirable disturbance of existing enforcement organization or practice.

THE CHARACTER OF THE PROBLEM.

The investigation by the Department in Massachusetts and in other jurisdictions formed the basis for an analysis of the present enforcement procedure with respect to its effect upon the various parties concerned.

The problem has a definite bearing upon three interests, — the motorist, the police and the courts.

The Motorist. — The present method of procedure in connection with minor vehicle offences places an unwarranted burden upon the driving public. The first burden

is to be found in the criminal record, which is inherent in a conviction for the infraction of any law or rule or regulation respecting the operation of vehicles. It is believed that this criminal record is entirely proper in connection with all those infractions of the law which directly imply a criminal disregard for the property or life of other highway users. On the other hand, it is believed that this criminal record is an unwarranted punishment in connection with conviction for a very large number of minor offences which imply no direct criminal intent and involve no serious jeopardy to the safety of others.

In addition to the unwarranted criminal record in connection with such minor offences the motorists are subjected to an inconvenience in court procedure which is entirely disproportionate to the seriousness of the offence.

Finally, the motorists have been subjected to an uncertainty with respect to the size of the penalty which may be assessed for a minor offence committed in any particular district court jurisdiction within the Commonwealth.

These unwarranted burdens have combined to create a widespread sentiment of dissatisfaction, a lack of respect for the law and the enforcing agencies, and a demand for an equitable solution.

The Police. — The present procedure has placed unnecessary burdens upon the police personnel. The enforcement of traffic regulations has required the use of an increasing proportion of the time of police departments. This demand has necessitated substantial increases in the size of police departments, and even under the most favorable conditions the personnel is inadequate in size to deal effectively with the traffic problem in addition to regular police duties. No small part of the traffic time required of police departments is involved in the prosecution of cases in court. On typical court days a considerable part of the police personnel must be engaged in court appearances instead of performing effective enforcement duties. The investigations of the Department have revealed that in typical cases as much as twelve hours of

an officer's time may be necessary in the prosecution of a single minor traffic violation.

Present procedure tends to handicap the enforcement work of departments through the delay and uncertainty which is inherent in the present punitive procedure. Inasmuch as the offender is given no specific notice at present, it is necessary for the apprehending officer, subsequently and if instructed by his commanding officer, to make out a complaint and obtain a summons. Before this can be done the offender is frequently beyond the jurisdiction of the court. The burden upon the officer's time, and the delay involved, is increased by the necessity for police officers to serve the summons when issued. This duty includes not only the service of summons upon persons apprehended within the community where the department functions, but likewise the service of summons transmitted from other jurisdictions.

The certainty and efficiency of enforcement is further handicapped by the present procedure, which subjects all minor traffic offences to the formal procedure used in normal criminal cases. Continuance of cases and other technical opportunities for delay consume additional police time and add to the uncertainty of final conviction.

These conditions combine to render the enforcement work of police departments more costly and less effective than could be. Penalties are rendered uncertain and valuable police time is wasted.

The Courts. — Rapid increase in the volume of petty motor vehicle offences has presented many difficult problems in court procedure. In the larger metropolitan centers these cases have reached a number where they seriously interfere with the conduct of more important court business, and in some instances have resulted in undesirable court congestion. At best the necessity to hear great numbers of minor vehicle cases deprives the justices of the time to which they are entitled in the consideration of the more serious criminal matters which come before them. The rapidity with which cases must be heard, and the summary method which must frequently

be used in their disposition, result in an unwarranted impairment of the dignity of the court and the respect of the public for it.

Under present procedure the courts are forced to carry an unnecessary clerical burden in connection with minor motor offences. The preparation of complaints and the issuance of summons is a judicial routine disproportionate in complexity and labor to the character of the offence and the penalty involved.

RECOMMENDATIONS.

A detailed analysis of the character of the problem as outlined above has led to the conclusion that there is an urgent necessity for a modification and simplification of enforcement procedure as it applies to minor motor vehicle offences.

It is recognized that this necessity applies to only a limited class of offences, and that the normal criminal procedure should be retained for all of those offences which imply a direct disregard for public safety, or a definite criminal intent.

To meet the need for a "more effective, expeditious, and economical" disposition of minor motor vehicle offences the Department of Public Works presents herewith the text of recommended legislation.

EXPLANATION OF THE PROPOSED LEGISLATION.

This proposed act is designed to meet the special conditions existing in the Commonwealth, and has been adjusted as accurately as possible to customary police organization, motor vehicle administration, and the judicial system.

It will be noted that the procedure provided in the recommended legislation is applicable to but a limited number of offences. Upon examination these will be found to be regulatory measures, which imply a minimum factor of criminal intent. They have been considered by the Department as relatively minor, technical and routine infractions for which there may properly be provided a simplified and non-criminal procedure.

Too much emphasis cannot be laid upon the importance of the notices provided in the proposed legislation. They afford a relief to the motorist, the police and the courts, and at the same time add a large measure of certainty to the punitive process. The offender benefits through the notice by receiving immediately a specific description of the offence charged and definite information as to his further responsibility. The police are relieved of the wasted time involved in present procedure. The notice recommended relieves the courts by eliminating the necessity for the preparation of complaints, the issuance and return of summonses, and the necessity for hearings in the great majority of traffic cases.

It will be noted that the proposed legislation provides effective machinery to guarantee the appearance of offenders through the mandatory duty placed upon the Registrar to revoke the licenses of offenders who fail to respond to notices.

The inconvenience and expense to which motorists are subjected by present procedure through the necessity to appear in person, often in distant courts, will be mitigated by the privilege of appearing in the specified cases through any person authorized by the offender. Consideration has been given to the proposal that the non-criminal penalties provided might be sent to the court by the offender through registered mail. Investigation of conditions where such method has been used indicates that the practice has been dropped as unsatisfactory.

The right of any one offender to pay non-criminal penalties has been limited in the proposed legislation to three offences committed within a single court jurisdiction within a period of twelve months. It is believed that the limitation to three offences is justifiable on the grounds that a more frequent offender has proved a degree of disregard for the law which warrants his being subjected to the normal criminal procedure. The computation of three offences is limited to the jurisdiction of a single court because of the complex machinery which would be required to keep all courts constantly informed regarding the con-

viction record of all drivers throughout the Commonwealth. It will be noted, however, that the Registrar of Motor Vehicles is given the duty of maintaining complete records of all convictions throughout the State, and thus in the case of repeaters or more serious offenders the individual's full record of convictions for non-criminal as well as criminal offences will be available for the courts.

In connection with the administration of the non-criminal procedure as set forth in the proposed legislation it is deemed desirable that there should be a uniformity in the schedule of penalties as among the various court jurisdictions of the State. Thus it is recommended that the schedule of penalties for first, second and third violations of the provisions affected should be made for the district courts by their administrative committee, and for the municipal court of the city of Boston by the Chief Justice thereof.

It will be noted that the procedure for the disposition of charges for a violation of the specified provisions is simple. The offender appears before the clerk of the proper district court in accordance with a notice given him at the time of the offence. The case is disposed of by the payment of the stated fine. The proposed act declares such a disposition to be non-criminal in effect.

Special emphasis is laid upon the fact that the non-criminal procedure recommended in no wise impairs the constitutional right of any person charged with an offence to a regular trial before the district court. Any person appearing in accordance with the notice may request the clerk of the court that his case be heard before the court, and the regular procedure as at present followed in criminal cases will be substituted for the non-criminal procedure otherwise effective.

One of the most important enforcement factors involved in the proposed legislation is the increasing severity of punishment for repeaters. Accurate records will be maintained of all offences, and the individual will forfeit his right to a non-criminal procedure before a given district court upon the commission of three offences within a

period of twelve months. The offender upon a fourth charge will appear before the court as one recorded as a persistent violator, and the justice of the court will be fully informed as to the record of the individual.

It is to be noted that the proposed legislation provides that every notice presented to an offender will be the same as to form and as to the information contained therein, no matter in what jurisdiction he may be apprehended, and notified to appear.

The Department submits a form of bill to carry this recommendation into effect.

Respectfully submitted,

DEPARTMENT OF PUBLIC WORKS,

F. E. LYMAN,

Commissioner of Public Works.

RICHARD K. HALE,

H. A. MACDONALD,

Associate Commissioners.

EDITORIAL NOTE.

The plan of the department seems a workable and most desirable one. The triplicate notices can be filled out with one writing by the use of pocket pads of carbon backed slips. It has been suggested to us, and we think it reasonable, that a provision should be added to the third paragraph of the act that if a resident of Pittsfield is notified by a Newton officer to appear in the Newton court, or a Newton man notified to appear in a Pittsfield or other court distant from his residence, he may go to the clerk of his local district court and pay the fine and have the clerk forward it to the other court.

F. W. G.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Thirty.

An Act to provide for the Non-Criminal Disposition of Charges for Violation of Certain Motor Vehicle Laws and Rules and Regulations.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter ninety of the General Laws is hereby
2 amended by inserting after section twenty the follow-
3 ing new section: —

4 *Section 20A.* It shall be the duty of any police
5 officer who takes cognizance of a violation of any pro-
6 vision of sections fourteen, fifteen or sixteen of this
7 chapter, or of chapter eighty-nine, or of any rule or
8 regulation made by the department of public works
9 under authority of section two of chapter eighty-five,
10 or of any rule, regulation, order, ordinance or by-law
11 regulating motor vehicles or their operation established
12 by any city or town or by any commission or body
13 empowered by law to make such rules or regulations
14 therein, to forthwith give to the offender a notice to
15 appear before the clerk of the district court having
16 jurisdiction, at any time during office hours not later
17 than five days after the time of said violation. Such
18 notice shall be made in triplicate, and shall contain
19 the name, address and operator's license number, if
20 any, of the offender; the registration number of the
21 vehicle involved, the time and place of the violation,

22 the specific offence charged, and the time and place
23 of appearance. Such notice shall be signed by the
24 officer, and shall be signed by the offender in acknowl-
25 edgment that the notice has been received. The officer
26 shall deliver to the offender at the time and place of the
27 violation a copy of said notice, and at the completion
28 of each tour of duty the officer shall give to his com-
29 manding officer two copies of each notice. Said
30 commanding officer shall retain and safely preserve
31 one of said copies, and shall, at a time not later than
32 the beginning of the next court day, deliver the other
33 copy to the clerk of the court before whom the offender
34 has been notified to appear.

35 The clerk of each district court shall maintain a
36 docket of all such notices to appear. In case any
37 offender fails to appear in accordance with such notice
38 issued to him, the clerk shall notify the registrar, who
39 shall forthwith revoke the right of such person to
40 operate, or his operator's license, if any, and shall
41 reinstate such right, or issue another license to such
42 person only upon notice from the district court that
43 the case has been disposed of in accordance with law.

44 Any person notified to appear before the clerk of a
45 district court as provided herein, instead of appearing
46 personally may appear through any person duly au-
47 thorized by him in writing. Any such offender, or in
48 his absence a person authorized, may request the clerk
49 of the court that the offence charged be taken for con-
50 fessed, and unless it appears that it is the fourth or
51 more offence charged against such person for a viola-
52 tion of any provision mentioned in this section com-
53 mitted within the jurisdiction of the district court
54 within a period of twelve months, may pay said clerk
55 such fine or forfeiture as may be established for such

56 violation by standing order of the chief justice of the
57 municipal court of the city of Boston for said court,
58 and by standing order of the administrative committee
59 of the district courts as created by section forty-three A
60 of chapter two hundred eighteen for said courts, not to
61 exceed the maximum fine or forfeiture provided by
62 law. The payment of the fine or forfeiture to the
63 clerk of the court in the manner herein provided shall
64 operate as a final disposition of the case, and the pro-
65 ceedings shall not be deemed criminal.

66 A full record shall be kept by the clerk of each dis-
67 trict court of every case disposed of by the payment of
68 a fine or forfeiture to the clerk of the court as provided
69 herein, and an abstract of such record shall be sent
70 forthwith by the clerk to the registrar upon forms to be
71 provided by the registrar, and every such abstract shall
72 be certified by the clerk of the court as a true abstract
73 of the case. The registrar shall keep said abstracts in
74 his main office, and they shall be open to the inspection
75 of any person during reasonable business hours.

76 Should any person notified to appear as provided
77 herein fail to appear, or having appeared shall desire
78 not to avail himself of the benefits of the procedure
79 established by this section, or should the charge be the
80 fourth or more offence charged against such person for
81 a violation of any provision mentioned in this section
82 committed within the jurisdiction of the district court
83 within a period of twelve months, the clerk shall as soon
84 as may be notify the officer concerned, who shall forth-
85 with make a complaint and follow the procedure es-
86 tablished for criminal cases.

87 The notices to appear, provided herein, shall be
88 printed by the registrar and shall be numbered serially.
89 The registrar shall distribute such notices to the clerks

90 of the district courts upon request, and shall take a
91 receipt therefor. The clerks of the district courts shall
92 distribute such notices to the commanding officers of
93 police departments upon request, and shall take a
94 receipt therefor.







